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1880 - IX

GOVERNMENT OF BENGAL.
LEGISLATIVE DEPARTMENT.

THE
CESS ACT, 1880
(BENGAL ACT IX OF 1880);
AS MODIFIED UP TO THE 1ST JUNE, 1910.



CALCUTTA:
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STATEMENT OF REPEALS AND AMENDMENTS.

REPEALED IN PART AND AMENDED ...				{ Act I of 1903. Bengal Act III of 1885 (when and where declared in force) ; Bengal Act IV of 1910.
AMENDED	
				{ Act VII of 1881 ; Bengal Act II of 1881 ; Bengal Act V of 1908, s. 64.

The following changes have been made in printing this Act :—

- (1) repealed matter has been omitted, explanatory notes being inserted, or, where this was not practicable, the repeal has been mentioned in a foot-note ;
- (2) amendments have been inserted in their proper places, with explanatory foot-notes, or, where this was not practicable, the amendment has been mentioned in a foot-note ;
- (3) some further foot-notes have been added for convenience of reference ;
- (4) the number and year of Acts referred to in the text have been printed in the inner margin, except where both appear in the text ; and
- (5) the headings to the pages have been amplified.

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THE CESS ACT, 1880.

(BENGAL ACT IX OF 1880).^[1]

[The 13th October, 1880.]

[As modified up to the 1st June, 1910.]

An Act to amend and consolidate the Law relating to Rating for the Construction, Charges and Maintenance of District Communications and other Works of Public Utility, and of Provincial Public Works.

WHEREAS it is expedient to amend and consolidate the law Preamble. relating to rating for the construction, charges and maintenance of district roads and other means of communication, and of provincial public works, within the territories administered by the Lieutenant-Governor of Bengal, and to the levy of a road cess and a public works cess on immovable property situate therein, and

[¹] LOCAL EXTENT.—This Act took effect in several districts and parts of district from its commencement, and the Lieutenant-Governor is empowered to extend it to any other district or part of a district in Bengal (see section 2). But the Act does not affect immovable property in Calcutta or in certain provincial municipalities (see *ibid*), and the Lieutenant-Governor is empowered to exempt any district or part of a district, or any estate or tenure, from the operation of the Act, or from the operation of so much of the Act as relates to the Road Cess or the Public Works Cess (see *ibid*).

The Act has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), s. 3, to be in force in the following Scheduled Districts, namely :—

the Hazaribagh, Ranchi, Palamau and Manbhum Districts, and Pargana; Dhalbhum in the Singhbhum District, in the Chota Nagpur Division—see Notifications Nos. 1395, 1396, 1397 and 1398, dated the 21st October, 1881, in Gazette of India, 1881, Part I, pp. 507 to 510.

The Act is in force in the Sonthal Parganas (see Notification No. 480, dated the 25th October, 1905, in Calcutta Gazette, 1905, Part I, page 1849). Its operation in the Angul District is barred by the Angul District Regulation, 1894 (I of 1894), s. 3 (2).

LOCAL REPEALS AND AMENDMENTS.—Section 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) repeals and amends a number of sections (indicated *post*) of the present Act in districts in which the former Act has come into force. The Act of 1885 is in force in all districts in which the present Act is in force, except the Darjeeling and Singhbhum districts and the Sonthal Parganas.

ANNOTATED REPRINT.—For an annotated reprint of this Act, with rules made by the Board of Revenue under section 106, circulars issued and forms prescribed by the Board, and notes of cases decided by the High Court and of rulings by the Board, see the Cess Manual, 1900.

AMALGAMATION OF CESSES.—The rate imposed under the Bengal Sanitary Drainage Act, 1895 (Ben. Act VIII of 1895), is collected with the road cess imposed under the present Act—see ss. 21 and 22 of the Act of 1895.

(Preliminary.—Sec. 4.)

Interpreta-
tion-of-*clause*.

4. In this Act, unless there be something repugnant in the subject or context,—

"Annual
value of
land," etc. :

"annual value of any land, estate or tenure" means the total * * [1] rent which is payable, or, if no * * [1] rent is actually payable, would, on a reasonable assessment, be payable, during the year by all the cultivating raiyats of such land, estate or tenure, or by other persons in the actual use and occupation thereof :

[2] [*Explanation*.—For the purposes of the foregoing definition, whatever is lawfully payable or deliverable, or would, on a reasonable assessment, be lawfully payable or deliverable, in money or in kind, directly to the Government,—

(a) by raiyats cultivating land in a Government estate—on account of the use or occupation of the land, or

(b) by other persons in the actual use and occupation of land in such an estate,

shall be deemed to be "rent" :]

"Commis-
sioner : "
"Cultivating
raiayat : "

"Commissioner" means the Commissioner of the division :

"cultivating raiyat" means a person cultivating land and paying rent therefor not exceeding one hundred rupees *per annum*.

Explanation.—When rent is payable in kind, the money value thereof shall, for the purposes of this Act, be taken to be the annual value of the landlord's share of the crop calculated on an average of the three years next preceding any valuation or re-valuation under this Act :

"District : "

"district" means the local area to which a Collector is appointed, and no lands situate beyond the limits of such local area shall be deemed to form part of a district by reason of their forming part of an estate paying revenue to the Collector thereof :

"Estate : "

[3] "estate" means—

(1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands

[1] The words "revenue or," which were repealed by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 2(I), have been omitted.

[2] This *Explanation* was added by s. 2(2) of the same Act.

[3] For power to direct that certain land shall be deemed to be a "tenure" and not an "estate," see s. 40A, *post*, p. 24.

(Preliminary.—Sec. 4.)

Ben. Act
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prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force ;

(2) any land, other than the holding of a cultivating raiyat, the revenue or rent of which may be payable directly to the Collector or any person specially appointed by him to collect the same ;

(3) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste lands :

“holder of an estate or tenure” means all or any of the holders thereof, and, where two or more persons are jointly holders thereof, they shall be jointly and severally liable under this Act : “Holder of an estate or tenure :”

“holding” means the land held by a cultivating raiyat : “Holding :”

“immovable property” includes lands and all benefits to arise out of land and things attached to the earth, or permanently fastened to anything which is attached to the earth, but does not include crops of any kind, or houses, shops or other buildings : “Immovable property :”

“land” means land which is cultivated, uncultivated or covered with water, and does not include houses or buildings : “Land :”

“Part,” “Chapter” and “section” mean respectively a Part, Chapter and section of this Act : “Part,”
“Chapter”
and “sec-
tion :”

“Schedule” means a Schedule to this Act annexed, and every such schedule shall be read as part of this Act : “Schedule :”

[1] “tenure” includes every interest in land, whether rent-paying or not, save and except an estate as above defined, and save and except the interest of a cultivating raiyat : “Tenure :”

“the Collector” includes any person specially invested with the powers of a Collector for the purposes of this Act, and means— “The Collec-
or :”

i.—when used in reference to revenue-paying estates and lands comprised therein, to all proceedings connected

[1] For power to direct that certain land shall be deemed to be a “tenure” and not an “estate,” see s. 40 A, *post*, p. 24.

(Preliminary.—Sec. 4.)

therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose revenue-roll such estates are borne;

ii.—when used in reference to revenue-free estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose general register of revenue-free lands such estates are borne:

“The Collector of the district:”

“the Collector of the district” includes any person specially invested with the powers of a Collector for the purposes of this Act, and means the officer in charge of the revenue-administration of a district:

“The Settlement Officer:”

[1] [“the Settlement Officer” means the Revenue-officer appointed by the Local Government, under the designation of Settlement Officer or Assistant Settlement Officer, for the purpose of preparing or revising records-of-rights, under Chapter X of the Bengal Tenancy Act, 1885, or any other law for the time being in force, in respect of the lands in any local area, estate or tenure, or part thereof,

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and includes any officer appointed by the Local Government to maintain records-of-rights so prepared or revised.]

“The committee:”

“[2] the committee” means the district road committee of any district:

“Year.”

“year” means the cess year as determined by the Lieutenant-Governor under section 11.

[1] This definition of “the Settlement Officer” was inserted by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 2 (3).

[2] In districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act [1] of 1885) is in force, the following has been substituted for the definition of “the committee” (see s. 2 and Sch. II of that Act, in the Bengal Code, 1905, Vol. II, pp. 640, 678):—

“District Board:”
“District Fund.”

“‘District Board’ means the Board constituted under the provisions of the Bengal Local Self-Government Act of 1885.

“‘District Fund’ means the fund formed under section 52 of the Bengal Local Self-Government Act of 1885.”

*(Part I.—Chapter I.—Imposition and Application of the Cesses —
Secs. 5-9.)*

PART I.

CHAPTER I.

IMPOSITION AND APPLICATION OF THE CESSES.

5. From and after the commencement of this Act in any district or part of a district, all immovable property situate therein, except as otherwise in sections 2 and 8 provided, shall be liable to the payment of a road cess and a public works cess.

All immovable property to be liable to a road cess and public works cess.

6. The road cess and the public works cess shall be assessed on the annual value of lands and on the annual net profits from mines, quarries, tramways, railways and other immovable property ascertained respectively as in this Act prescribed ;

Cesses how to be assessed.

and the rates at which such cesses respectively shall be levied for each year shall be determined for such year in the manner in this Act prescribed :

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-half anna on each rupee of such annual value and annual net profits respectively.

7. Nothing in this Act contained shall be deemed to require the payment by the Lieutenant-Governor of Bengal, from the public revenues, of any sum as road cess in excess of such sums as may have been paid as such cess to the Collector by persons liable to pay the same.

Public revenues not liable for more road cess than has been paid to Collector by persons liable.

8. No railway or tramway, the property of the Government of India, and no railway or tramway of which the dividend is guaranteed by Her Majesty's Secretary of State for India in Council, or by the Governor-General of India in Council, or by the Lieutenant-Governor of Bengal, shall be liable to road cess or public works cess under the provisions of this Act without the previous consent of the Governor-General of India in Council.

Government and guaranteed railways not liable to the cesses without consent of Governor-General in Council.

9. The proceeds of the road cess in each district shall be paid into the district road fund of such district, as hereinafter provided,

Application of proceeds of road cess.

(*Part I.—Chapter I.—Imposition and Application of the Cesses.—
Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Secs. 10-12.*)

and, together with other assets of such fund, shall be applied to the purposes mentioned in section 109 [1].

Application of
proceeds of
public works
cesses.

10. The proceeds of the public works cess [2] [and all interest paid thereon] shall be paid into the public treasury, and shall be applied (1) to the payment of such contributions to the district road fund as the Lieutenant-Governor may think proper in consideration of the said cess being assessed and collected jointly with the road cess by establishments paid from the district road fund; and (2) to the construction charges and maintenance of provincial public works, and to the payment of interest on capital which may have been expended, or which may hereafter be expended, on such works in such manner as the Lieutenant-Governor may direct.

Power to fix
cess year.

11. The Lieutenant-Governor shall, by an order published in the Calcutta Gazette, fix the date from which the cesses leviable under this Act in any district or part of a district shall take effect therein, and may fix and from time to time alter the date from which the cess year shall run in any district or part thereof.

PART II.

MODE OF ASSESSMENT.

CHAPTER II.

VALUATION OF LANDS.

Board of
Revenue
may order
valuation,

12. Upon the commencement of this Act in any district or part of a district, the [3] [Board of Revenue] may order that a valuation shall be made of such district or part of a district;

[1] The figures "109," in s. 9, were substituted for the figures "111" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 1.

The words and figures which are printed in italics are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force—see s. 2 and Sch. II of that Act, in the Bengal Code, 1905, Vol II, pp. 640, 678.

[2] These words in square brackets in s. 10 were inserted by the Bengal Cess Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 2.

[3] The words "Board of Revenue" were substituted for the words "Lieutenant-Governor" by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 5 (1).

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sec. 13.)

and from time to time, after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any re-valuation as hereafter provided in this section [1] [or in Chapter IIA], or at any time within twelve months previous to the expiration of such term, and re-valuation.

the [2] [Board of Revenue] may, if [3] [they] think fit, order that a re-valuation shall be made of any such district or part of a district, and such re-valuation shall take effect from the beginning of such year as the [2] [Board of Revenue] may direct.

13. Whenever the term of five years shall have expired from the beginning of the year in which the levy of the cesses took effect in any estate or tenure in accordance with any valuation [4] [or re-valuation] under this Act or Bengal Act X of 1871, [5] the holder of any such estate or tenure may apply to the Collector to re-value his estate or tenure, and for such purpose shall lodge in the office of the Collector returns in the form in Schedule A contained; and thereupon the Collector shall proceed to re-value such estate or tenure, and, if he make any alteration in the valuation of any such tenure, shall give notice of such alteration to the holder of the estate or superior tenure in which such tenure is included, and shall alter the valuation of such estate or superior tenure accordingly : After five years holder of estate or tenure may apply to Collector for re-valuation.

Provided that no re-valuation or reduction of the amount of cesses previously payable in respect of any estate or tenure, in consequence of a re-valuation under this section, shall take effect until the beginning of the year commencing next after such re-valuation, unless the application for re-valuation shall have been made and the necessary returns lodged in the Collector's office

[1] These words in square brackets were inserted by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 3.

[2] The words "Board of Revenue," in section 13, were substituted for the words "Lieutenant-Governor" by s. 5 (1) of the same Act.

[3] This word "they" was substituted for the word "he" by s. 5 (2) of the same Act.

[4] These words "or re-valuation," in s. 13, were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 3.

[5] Ben. Act X of 1871 has been repealed by this Act—see s. 3, *ante*, p. 3.

*(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Secs. 14-16.)*

within three months after the beginning of a year, in which case such re-valuation and reduction, if any, shall take effect from the commencement of such year.

Proclamation
to make
return of
lands to be
issued.

14. Whenever the ^[1] [Board of Revenue] has ordered ^[2] [under section 12] that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure, in the form in Schedule A contained, giving the particulars in such form set forth.

Publication of
proclamation.

The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Sub-divisional Officer within the district, and in any other manner which the ^[1] [Board of Revenue] may from time to time direct.

Re-valuation
may be of
particular
estates or
tenures only.

15. At any time at which the ^[1] [Board of Revenue] might order a re-valuation of a district or part of a district to be made as provided by section 12, ^[3] [they] may, if ^[3] [they] think fit, instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

Notice to
lodge returns.

16. Whenever any proclamation has been published, as mentioned in section 14, in any district, and whenever the ^[1] [Board of Revenue] has made an order, under the last preceding section, that a re-valuation of particular estates and tenures only shall be made, the Collector shall cause a notice to be

^[1] The words "Board of Revenue," in sections 14, 15, and 16, were substituted for the words "Lieutenant-Governor" by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 5(7).

^[2] These words "under section 12" were inserted in section 14 by s. 4 of the same Act.

^[3] This word "they" was substituted for the word "he" by s. 5 (2) of the same Act.

(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Sec. 17.)

served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate or tenure severally to lodge at the office of the Collector the return mentioned in section 14;

and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act X of 1871, [1] either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or re-valuation, or of which the existence may in any other way have come to his knowledge.

17. The notice mentioned in the last preceding section shall be in the Form No. 1 in Schedule B contained, or in the Form No. II in the said Schedule contained, as the case may be, and shall require every holder of the estate or tenure severally to lodge the return within the time specified below, namely:—

Form of notice
and time for
lodging
return.

In the case of Revenue-paying Estates and Rent-paying Tenures.

If the return relate to an estate or tenure which is liable to the payment of annual revenue or of rent not exceeding Rs. 500, or to any share or interest in such estate or tenure. Within six weeks of the service of the notice.

If the return relate to any other estate or tenure, or to any share or interest therein. Within three months of the service of the notice.

In the case of Revenue-free Estates and Rent-free Tenures.

If the return relate to any estate or tenure of which the gross annual rental does not exceed Rs. 500, or to any share or interest in such estate or tenure. Within six weeks of the service of the notice.

If the return relate to any other estate or tenure, or to any share or interest therein. Within three months of the service of the notice.

[1] Ben. Act X of 1871 has been repealed by this Act—see s. 3, ante, p. 3.

*(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Secs. 18, 19.)*

The Collector may in his discretion extend the time allowed for lodging any such return.

* Pā. lity for
omitting to
make return.

18. All holders of estates or tenures in respect of which such notice has been served who shall, without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to lodge the required return in the office of such Collector within the time allowed by such notice in respect of the estate or tenure which they hold, or within any extended time which may have been allowed by the Collector for lodging such return, shall be severally liable to a fine which may extend to fifty rupees for every day after the expiration of such time or extended time until such return is furnished, or until the value of the lands comprised in their respective estates and tenures shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner shall otherwise direct.

Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

No rent to be
recovered till
return is
made.

19. From and after the expiry of the time allowed by the notice, or of any extended time under the provisions of section 17, every holder of an estate or tenure in respect of which such notice has been served shall be precluded from suing for or recovering rent for any land or tenure situate in any estate or tenure in respect of which no return has been lodged as aforesaid.

The Collector may send a list to the Civil Court of all such holders so making default in lodging returns as aforesaid, and such Court shall take judicial notice of the same.

*(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Sec. 20.)*

Whenever the required return is lodged in respect of any estate or tenure or whenever the valuation of any such estate or tenure has been otherwise completed, the disability imposed on the holder thereof by this section shall cease; and, if such estate or tenure shall have been included in any list as aforesaid, the Collector shall forthwith give notice to the Civil Court of the cessation of such disability.

20. Every holder of an estate or tenure in respect of which a return has been made as required by this Chapter shall be precluded from suing for or recovering—

No rent to be recovered for land, etc., not mentioned in return.

(a) any rent whatsoever for any land, holding or tenure forming part of the estate or tenure to which such return relates, but which has not been mentioned in such return, unless it be proved that the holding or tenure for the rent of which the rent is claimed was created subsequently to the lodging of such return;

(b) rent at any higher rate than is mentioned in such return for any land, holding or tenure included in such return, unless it be proved that the rent of such land or tenure has been lawfully enhanced subsequently to the lodging of such return:

Provided that the Collector may, at his discretion, at any time within six months from the presentation of any return made under this Part, receive a petition correcting any such return;

Proviso.

and on the acceptance of such petition may make such correction in the valuation of the estate or tenure as may be required;

and, as soon as the person in respect of whose estate or tenure the return and valuation have been so corrected shall have paid in all sums due by him as road cess and public works cess in accordance with such corrected valuation, and not otherwise, such person may recover such rent as may be due to him on any tenure or land included in the return of such estate or tenure at any rate not being in excess of the rate shown in the corrected return as payable in respect of such tenure or land.

*(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Secs. 21-24.)*

Such notices as the Collector may direct shall be served upon the parties affected by such petition, at the expense of the person lodging the return as aforesaid.

If returns not
furnished,
Collector to
make valua-
tion.

21. If no return shall have been lodged in respect of any lands for which notice under section 16 has been issued, the Collector may, after the expiration of the time allowed by the notice, or of such extended time as is mentioned in section 17, ascertain and fix, by such ways and means as to him shall seem expedient, the annual value of any estate, tenure or lands mentioned in such notice; and all expenses incurred in making such valuation may be recovered with all costs of recovery thereof as provided in sections 98 and 99.

Valuation by
Collector
where return
untrue or in-
correct.

[1]22. If the Collector is satisfied, for reasons to be recorded by him in writing, that any return made under this Act is untrue or incorrect, he may, by such ways and means as to him may seem expedient, ascertain and fix the annual value of the lands in respect of which the return has been made :

Provided that no such action shall be taken without giving notice to the person who made the return and allowing him an opportunity to prove that the return is not untrue or incorrect.

Recovery of
expense of
such valua-
tion.

[1]23. The expense of any valuation made by the Collector under section 22 may be recovered, in the manner prescribed in sections 98 and 99, from the person by whom the untrue or incorrect return was made :

Provided that, where such return relates to lands for which no rent is payable by cultivating raiyats to the person who made the return, and the annual value of such lands, as determined by the Collector under section 22, does not exceed by one-fifth the value stated in such return, the said expense shall be borne by the District Road Fund.

Person re-
turned as cul-
tivating raiyat
may be served
with notice.

24. The Collector may, whenever he may think fit, cause a notice, in the Form No. I in Schedule B contained, to be served

[1] These sections were substituted for the original sections 22 and 23 by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 6.

*(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Secs. 25-27.)*

on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating raiyat; and thereupon such person shall be bound to make a return of the annual value of such lands within one month from the service of such notice, in the form in Schedule A contained, and the provisions of sections 17 and 18 regarding extension of time for lodging a return and regarding fines, respectively, shall be applicable to such person.

25. If no return is made by any person on whom a notice has been served as provided in the last preceding section, the Collector may proceed, by such ways and means as to him shall seem expedient, to ascertain the annual value of the lands held by such person; and, in case it appears that such annual value is greater than the rent paid by such person, the expense of such valuation shall be borne by such person and may be recovered, with all costs of recovery thereof, as provided in sections 98 and 99, but in all other cases shall be borne by the District Road Fund.

If no return made, Collector may ascertain annual value of lands.

26. If it shall appear to the Collector that any person on whom a notice has been served under section 24 has been wrongly classed in the return as a cultivating raiyat, the Collector may direct that the entry be corrected and that such person be classed as a tenure-holder;

Collector may correct classification in returns.

and thereupon such person shall be deemed to be a tenure-holder for the purposes of the assessment and levy of the cesses in respect of the lands held by him.

27. Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, does not exceed the sum of one hundred rupees, the Collector may, without issuing any notice for such estate or tenure,—

Summary valuation of small revenue-paying estates and tenures.

- (a) in any case determine the annual value of the land comprised therein to be, in a permanently-settled estate or tenure, a sum not exceeding three times, and in a temporarily-settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor; or,

(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Secs. 28, 29.)

(b) when the area of the said estate or tenure has been ascertained, determine the annual value of such estate or tenure to be at such rate per acre as to him shall seem fit.

Summary valuation of small revenue-free estates and rent-free tenures of which the area has been ascertained.

28. When the area of any revenue-free estate or rent-free tenure, the gross rental of which does not exceed, or is not estimated by the Collector to exceed, the sum of one hundred rupees, has been ascertained, the Collector may, without issuing any notice for such estate or tenure, determine the annual value of such estate or tenure to be at such rate per acre as to him may seem fit.

Computation of annual value of land comprised in a subordinate tenure in a summarily-valued estate or tenure.

29. When the land contained in any estate or tenure has been summarily valued by the Collector in the manner provided by clause (a) of section 27, the annual value of any portion of such land which is comprised within a tenure subordinate to such estate or tenure shall be determined according to the following rules:—

- (1) When the subordinate tenure comprises the whole of the estate or superior tenure, the annual value of the subordinate tenure shall be taken to be the same as that of the estate or superior tenure.

Example.—An estate paying a revenue of Rs. 80 is summarily valued by the Collector under clause (a) of section 27 at Rs. 200. The whole estate is let in patni for a rent of Rs. 120. The annual value of the patni tenure will be Rs. 200.

- (2) When the subordinate tenure comprises a part only of the land constituting the estate or superior tenure,—
 - (a) the difference between the annual value of the estate or superior tenure, and the revenue or rent payable in respect of such estate or superior tenure, shall first be ascertained;
 - (b) next, the ratio which such difference bears to such revenue or rent shall be ascertained;
 - (c) then the amount which bears the same ratio to the rent payable in respect of the subordinate tenure shall be ascertained;

(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands —Secs. 30, 31.)

(d) half of the amount so ascertained shall be added to the rent payable in respect of the subordinate tenure; and the result shall be taken to be the annual value of the subordinate tenure.

Example A.—An estate paying revenue of Rs. 60 is summarily valued by the Collector under clause (a) of section 27 at Rs. 100. A part only of the estate is let in patni for a rent of Rs. 37-8

The difference between the annual value of the estate (Rs. 100) and the revenue paid in respect of it (Rs. 60) is Rs. 40. This difference bears a ratio of two-thirds to this revenue (Rs. 60).

The amount which bears the same ratio (two-thirds) to the rent payable in respect of the patni (Rs. 37-8) is Rs. 25;

add half of Rs. 25 to the rent payable in respect of the patni tenure, and the result (Rs. 37-8 + Rs. 12-8 =) Rs. 50 will be the annual value of the patni tenure.

Example B.—Within the patni tenure paying a rent of Rs. 37-8 as in Example A. is a darpatni tenure paying a rent of Rs. 27.

The difference between the annual value of the patni tenure ascertained as above (Rs. 50) and the rent payable in respect of the patni (Rs. 37-8) is Rs. 12-8, which bears a [1] ratio of one-third to the said rent.

The amount which bears the same ratio (one-third) to the rent payable in respect of the darpatni (Rs. 27) is Rs. 9;

add half of Rs. 9 to the rent payable in respect of the darpatni, and the result (Rs. 27 + Rs. 4-8 =) Rs. 31-8 will be the annual value of the darpatni tenure.

30. When the land contained in any estate or tenure has been summarily valued according to a rate per acre, under clause (b) of section 27, or under section 28, the annual value of the land comprised in any subordinate tenure shall be taken at the same rate per acre as that of the estate or superior tenure.

When such lands may be valued according to rate per acre.

31. The holder of any estate or tenure which has been summarily valued under section 27 or 28 may, within one

Holder of summarily valued estate or tenure may lodge return.

[1] The word "ratio," in Example B, was substituted for the word "rate" by the Repealing and Amending Act, 1903 (1 of 1903).

*(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Secs. 32-34.)*

month from the posting of the valuation-roll in respect thereof under section 35, lodge a return, in the form in Schedule A contained, in regard to such estate or tenure; and thereupon such return shall be deemed to be a return made as required by section 16, and shall be dealt with accordingly.

Collector may
value small
estate or ten-
ure by regular
process.

32. Instead of proceeding to value any estate or tenure summarily under the provisions of section 27 or 28, the Collector may, if he think fit, cause a notice to be served in respect of any such estate or tenure, in the Form No. I in Schedule B contained, or in the Form No. II in the said Schedule contained, as the case may be, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent payable in respect of such estate or tenure had exceeded one hundred rupees.

Lands used for Tea, Coffee or Cinchona.

Return of
plantations,
etc.

33. In the case of lands acquired under any rules issued by, or under the authority of, the Government for the sale, lease, grant or clearance of waste-lands, or held directly from Government, and used for the cultivation of tea, coffee or cinchona, the Collector shall, in lieu of the notice prescribed by section 16, cause a notice to be served, calling on the holder of such lands to lodge, within two months of the service of such notice, a return, in the form in Schedule C contained, giving the particulars in such form set forth; and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated, unless the Board of Revenue shall in any particular case prescribe a lower rate. The provisions of sections 18 and 21 shall apply to all lands in respect of which a notice has been issued under this section.

Publication of Valuation-rolls and Duration of Valuations.

Valuation-rolls
to be prepared.

34. Whenever any valuation or re-valuation is made under this Part, the Collector shall cause to be prepared from the returns furnished to him and from the valuations made by him in accordance with this Act a valuation-roll of each estate within his

*(Part II.—Mode of Assessment.—Chapter II.—Valuation of
Lands.—Secs. 35, 36.)*

district and of the tenures therein comprised, noting thereon for each estate the amount of revenue annually payable to Government on which the deduction specified in section 41 is to be calculated.

On the application of any holder of an estate or tenure or holding, and on payment of such copying fee as the Board of Revenue shall from time to time determine, the Collector shall cause to be furnished to such holder a copy or corrected copy of so much of any such returns, and of any such roll, as relates to the lands included within his estate, tenure or holding.

• 35. On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be posted up at ^{publication of} ~~at~~ ^{rolls.} the mal-utcherri of the estate to which such roll refers, and shall cause extracts of such portions of any such roll as refer to any tenure to be posted up at the mal-utcherri of such tenure:

Provided that, if no such mal-utcherri be found, such roll and such extracts shall be posted up at some conspicuous places on the estate and tenures respectively to which they refer, and that, if such estate or tenure cannot be found, such roll and such extracts shall be posted at some conspicuous place in any village in which such estate or tenure is believed to be situate.

The person who is entrusted with the publication of any such return shall obtain an acknowledgment in writing, signed by ^{To be attested} ~~by~~ ^{by two persons.} two persons, who may be either respectable residents of the neighbourhood, or chaukidars or other officers of Government, to the effect that such return was duly published on the spot, and shall give in such acknowledgment of the Collector.

36. Except as otherwise in this Part expressly provided, ^{Valuation and} every valuation and re-valuation made under this Chapter shall ^{re-valuation} remain in force for the term of five years from the date fixed by ^{to be in force} ~~for five years.~~ the [1] [Board of Revenue] under section 12 as the date from which the cess leviable in pursuance thereof shall take effect, and thereafter, until another re-valuation and assessment in substitution therefor shall have been ordered and completed.

[1] The words "Board of Revenue" were substituted for the words "Lieutenant-Governor" by the Bengal Cess (Amendment) Act, 1910 (Bengal Act IV of 1910), s. 5(4).

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37, 37A.)

Collector may
reduce
valuation,

37. Nothing in section 36 contained shall be held to debar the Collector, with the sanction of the [1] [Commissioner], from making at any time any reduction which he may think fit in the valuation of any estate or tenure;

and may value
and assess
omitted and
newly-found
estates and
tenures.

or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made.

[2]CHAPTER IIA.

PROCEDURE FOR VALUATION OF LANDS IN RESPECT OF WHICH A RECORD-OF-RIGHTS IS BEING PREPARED, REVISED OR MAINTAINED.

Valuation
during pro-
cedure, revi-
sion or main-
tenance
of
record-of-
rights.

37A. (1) Notwithstanding anything contained in Chapter II, the Board of Revenue may, if they think fit, order that a valuation shall be made by the Settlement Officer of any local area, estate or tenure, or part thereof, in respect of which—

(a) a record-of-rights is being prepared or revised under Chapter X of the Bengal Tenancy Act, 1885, or any other law for the time being in force, or

VIII of
1885.

(b) a record-of-rights so prepared or revised is being maintained by an officer appointed by the Local Government in that behalf.

(2) Every valuation made under sub-section (1) shall take effect from the beginning of such year as the Board of Revenue may direct:

[1] The word "Commissioner" was substituted for the words "Board of Revenue" the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 7.

[2] Chapter IIA was inserted by s. 8 of the same Act.

(Part II.—*Mode of Assessment.*—Chapter IIA.—*Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.*—Secs. 37B-37D.)

Provided that no such valuation shall take effect before the expiration of the period of five years prescribed by section 36 for the continuance of the last preceding valuation (if any).

37B. (1) When an order has been issued by the Board of Revenue under section 37A, the Settlement Officer shall, at the time of preparing or revising the record-of-rights for the local area, estate or tenure, or part thereof to which such order relates, prepare a valuation-roll showing the annual value of all lands comprised within such local area, estate or tenure.

Preparation of valuation-roll by Settlement Officer.

(2) Where the lands of a local area, estate or tenure, in respect of which a valuation-roll is to be prepared under subsection (1), are situate in more than one district, the Settlement Officer may prepare the valuation-roll in respect of the lands lying in one district; and valuation may be effected and brought into force for the portion of the local area, estate or tenure situate in such district, in accordance with the procedure hereinafter prescribed.

37C. The Settlement Officer shall, without calling for returns from the holders of estates or tenures, ascertain and fix the annual value,—

Method of valuation by Settlement Officer.

- (a) in the case of land the rent of which is payable in cash—
on the basis of the rent which has been entered as payable therefor in the record-of-rights, and
- (b) in all other cases—by such ways and means as the Board of Revenue may prescribe in that behalf.

37D. Notwithstanding anything contained in section 37C, the Settlement Officer may, for the purpose of ascertaining or fixing the annual value of any land held without payment of rent, other than land mentioned in section 33, and other than estates entered on the general register of revenue-free lands of

Powers and functions of Settlement Officer in regard to valuation of rent-free lands.

(Part II.—Mode of Assessment.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37E-37G.)

the district, exercise any of the powers and functions which are exercisable by a Collector under Chapter IV.

Publication
of draft
valuation-roll
and hearing
of objections,

37E. When a draft valuation-roll has been prepared, the Settlement Officer—

(a) shall publish the draft together with, and in the manner and for the period prescribed by the law for the time being in force for the publication of, draft records-of-rights, and

(b) shall receive and consider objections to any entries in the valuation-roll at the time and in the manner prescribed by such law for receiving and considering objections to entries in draft records-of-rights.

Final
publication of
valuation-roll.

37F. When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, the Settlement Officer shall finally frame the valuation-roll and shall cause it to be finally published, and thereafter shall refuse to receive and consider any objections which may be made to any entry therein :

Provided that, where any material alteration has been made in the record-of-rights in accordance with any decision under section 104H, section 105, section 105A or section 106 of the Bengal Tenancy Act, 1885, or under any other law for the time being in force, a corresponding correction shall be made in the valuation-roll after its final publication. VIII of
1885.

Appeals
against
entries in
valuation-roll.

37G. (1) Where the Settlement Officer has ascertained and fixed the annual value of any land in the manner described in clause (a) of section 37C, no appeal shall lie against the entry of such annual value in the valuation-roll ; and the entry in the record-of-rights of the amount of rent payable in cash for such land shall, for the purposes of this Act, be final.

(2) Where the Settlement Officer has ascertained and fixed the annual value of any land by any of the ways and means prescribed under clause (b) of section 37C, or in exercise of

(Part II.—Mode of Assessment.—Chapter IIA.—Procedure for valuation of lands in respect of which a record of rights is being prepared, revised or maintained.—Chapter III.—Rating and Levy of the Cesses.—Secs. 37H.-38.)

powers referred to in section 37D, an appeal shall, if preferred within one month from the final publication of the valuation-roll, lie to such authority as the Local Government may by rule prescribe.

(3) The Commissioner may, on application made to him within one month from the date of the decision of the appellate authority in an appeal under sub-section (2), revise such decision.

37H. (1) When the valuation-roll has been finally published, the Settlement Officer shall submit it to the Collector.

Submission of valuation-roll to Collector, and Collector's procedure thereupon.

(2) On receipt of such valuation-roll the Collector shall note thereon the total annual value of each estate and of the tenures therein comprised, and the amount of revenue annually payable to the Government on which the deduction specified in section 41 is to be calculated.

(3) The Collector shall not entertain any objection against the total annual value of any estate or tenure which has been calculated under sub-section (2), except on the ground that an error or omission has been made in calculating the same.

37—I. The provisions of section 36 with regard to the term of a valuation, and of section 37, with regard to the power of the Collector to reduce a valuation, shall apply to a valuation made under this Chapter.

Term of, and Collector's power to reduce, valuation.

CHAPTER III.

RATING AND LEVY OF THE CESSES.

[1] 38. *The road cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as may be*

Rate at which road cess shall be levied how to be fixed.

[1] In districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force the following has been substituted for s. 38 (sec s. 2. and Sch. II of that Act, in the Bengal Code, 1905, Vol. II, pp. 640, 678) :—

"38. The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board."

Rate at which road cess shall be levied how to be fixed.

As to fixing the rate of road cess, see Ben. Act. III of 1885, s. 46, in the Bengal Code, 1905, Vol. II, p. 652.

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Secs. 39-40A.)

determined for such year by the committee of such district with the approval of the Commissioner under section 150 or 151, or with the approval of the Lieutenant-Governor under section 153, as the case may be, or at such rate as the Lieutenant-Governor may order under section 153.

Rate at which public works cess shall be levied how to be fixed.

39. The public works cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as the Lieutenant-Governor may determine for such year.

Notice showing amount of cess payable to be served on zamindars.

40 When the rate of road cess and public works cess to be levied in any district shall have been determined for any year and published in the Calcutta Gazette [1] *as provided in section 155* the Collector of the district

shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil Court, in every police-station, and in the office of every Sub-divisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect :

Provided that it shall not be necessary to serve such notice, when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section.

Recovery of cess from tenants in Government estates.

[2] 40A. Notwithstanding anything in the definitions of "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue may direct that any land (other than the holding of a cultivating raiyat) of which the rent or

[1] The words and figures in s. 40 which are printed in italics are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885, is in force—see s. 2 and Sch. II of that Act, printed in the Bengal Code, 1905. Vol. II, pp. 640, 678.

[2] S. 40A was inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 4.

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sec. 41.)

revenue is payable directly to the Government as proprietor thereof shall, for the purposes of this Part, be deemed to be a tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included, and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him.

41. Except as otherwise in this Act provided,—

- (1) every holder of an estate shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of the lands comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the revenue entered in the valuation-roll of such estate as payable in respect thereof ;
- (2) every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included the entire amount of the road cess and public works cess calculated on the annual value of the land comprised in his tenure at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the rent payable by him for such tenure ;
- (3) every cultivating raiyat shall pay to the person to whom his rent is payable one-half of the said road cess and public works cess calculated at the said rate or rates respectively upon the rent payable by him, or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him.

Mode of payment of road cess and public works cess by holder of estate ;

by holder of tenure ;

by cultivating raiyat

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sec. 42.)

by holders of
chaukidari
chakran lands.

[1] [Notwithstanding anything hereinbefore in this section contained, all persons to whom chaukidari chakran lands have been transferred under Part II of the Village Chaukidari Act, 1870, or the heirs or assigns of such persons, shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of such lands at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rate or rates for every rupee of the assessment approved under the said Part as payable in respect of such lands.] ^{Ben. Act VI of 1870.}

Time of pay-
ment by hold-
er of an
estate ;

42. (1) Every holder of a revenue-paying estate shall pay the amount of road cess and public works cess due by him in equal instalments on the several days fixed [2] [under the provisions of section 3 of Act XI of 1859 or of any similar Act at the time being in force for the payment of arrears] of revenue due in respect of his estate, or, if such revenue be payable in one annual sum, then on the day fixed for the payment of such sum.

(2) Every holder of a revenue-free estate shall pay the amount of road cess and public works cess due by him in two equal instalments or in one annual payment upon such days or day as shall be for that purpose appointed by any order of the Lieutenant-Governor.

by tenure-
holder and
raiayat.

(3) Every holder of a rent-paying tenure and every cultivating raiyat shall pay the amount of road cess and public works cess due by him in instalments in the proportion of the instalments of rent payable in respect of the tenure or holding of such tenure-holder or raiyat :

Provided that in cases in which, according to local usage or to the terms of any agreement, no part of such rent falls due before the end of the year on account of which it is payable, the tenure-holder or raiyat shall pay the amount of road cess and public

[1] This paragraph was added to section 41 by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 9.

[2] These words in square brackets in s. 42 (1) were substituted for the words "for the payment of the instalments" by the Bengal Cess (Amendment-No. 2) Act, 1881 (Ben. Act II of 1881), s. 5. Act XI of 1859 is printed in the Bengal Code, 1905, Vol. IV p. 341.

(Part II.—*Mode of Assessment.*—Chapter III.—*Rating and Levy of the Cesses.*—Secs. 43, 44.)

works cess due by him in two equal instalments upon such days as shall be for that purpose appointed by any order of the Lieutenant-Governor.

43. In case of partition of an estate being effected under Regulation XIX of 1814, [1] or Bengal Act VIII of 1876, [2] or any similar Act, after valuation of such estate and while such valuation remains in force, the total valuation of the original estate shall be distributed proportionately [3] [to the land revenue] under the order of the Collector over the newly-formed estates, whereupon the newly-formed estates shall, for the purposes of this Act, take the place of the original estate, the liability to pay cess in respect of each newly-formed estate being separate and distinct from the liability to pay cess in respect of any other of such newly-formed estates.

Distribution of valuation in case of partition.

Such separate liability shall take effect from the same date as the separate liability of the newly-formed estates respectively in respect of land-revenue.

The procedure proscribed by sections 34 and 35 shall be followed whenever a re-distribution of the valuation is made in consequence of a partition as mentioned in [4] [this section].

Procedure to be followed when there is a partition.

44. (1) When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act XI of 1859, [5] or under section 70 of Bengal Act VII of 1876, [6] or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of road cess and public works cess under this Act, to all the advantages of separate liability enjoyed by him under the said Act XI of 1859 [5] and Bengal Act VII of 1876 [6] in regard to the payment and realization of revenue, and shall be entitled to separate assessment and

Effect of opening separate account under Act XI of 1859 or Ben. Act VII of 1876.

[1] Reg. XIX of 1814 was repealed by the Estates Partition Act, 1876 (Ben. Act VIII of 1876).

[2] Ben. Act VIII of 1876 has been repealed and re-enacted by the Estates Partition Act, 1897 (Ben. Act V of 1897).

[3] These words in square brackets in s. 43 were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 6.

[4] These words in square brackets in s. 43 were substituted for the words "the last preceding section" by s. 6 of the same Act.

[5] Printed in the Bengal Code, 1905, Vol. IV, p. 341.

[6] For Ben. Act VII of 1876, see the revised edition, as modified up to the 1st April, 1908, published by the Legislative Department of the Government of Bengal.

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Classes—Sec. 44.)

to the issue of separate notices under this Act from the date on which such advantages shall take effect in respect of the demand of Government revenue.

(2) Whenever any such separate account is opened after the valuation of an estate, and while such valuation remains in force, the Collector shall issue a notice on the holders of the shares severally, in respect of which the accounts are to be kept separately, informing them that, unless any objection is preferred to the Collector within one month of the service of such notice, the amount of the cesses which the whole estate is liable to pay according to the existing valuation will, from the date on which such separate accounts were opened, be apportioned among such shares severally in proportion to the amount of Government revenue for the payment of which each such share is entered in the separate accounts as being liable. Such notice shall specify such proportionate amount.

(3) If no such objection be preferred within the time specified, such proportionate amount shall be the amount of the cesses for which the respective holders of such several shares are primarily liable as mentioned in section 13 of Act XI of 1859, [1] subject however, to the general responsibility of the holders of the entire estate, as mentioned in section 14 of the said Act, if the amount of the cesses due on account of any such share cannot be recovered as provided in sections 98 and 99 of this Act from the holders of such share.

(4) If any such objection shall be preferred as aforesaid, the total amount of the cesses for which the whole estate is liable according to the existing valuation shall be apportioned among the several shares in respect of which such separate accounts are opened in proportion to the annual value of such shares respectively under such rules or special instructions, not being inconsistent with this Act, as may be issued by the Board of Revenue; and the holders of such several shares shall be primarily liable as aforesaid for the payment of the amount of the cesses so apportioned on their shares respectively.

[1] Printed in the Bengal Code, 1905, Vol. IV, p. 341.

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Secs. 45.)

[1] (4a) Whenever a recorded sharer of a joint revenue-paying estate applies to the Collector, under section 10 or section 11 of Act XI of 1859 [2] or section 70 of Bengal Act VII of 1876, [3] for the opening of a separate account of the land-revenue payable by him, he may include in his application a request for the simultaneous opening of a separate account of the road cess and public works cess payable by him.

[1] (4b) The Collector may thereupon issue a notice to each of the several sharers of such estate, simultaneously with the notice issued under any of the aforesaid sections, informing him that, unless any objection is preferred to the Collector within six weeks of the service of the notice, the amount of the cesses which the whole estate is liable to pay will, from the date on which such separate account is opened, be apportioned among such sharers severally, in proportion to the amount of Government revenue for the payment of which each share is entered in the separate account as being liable.

[4] (5) Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause (1) of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share.

45. If any instalment of road cess or public works cess or part thereof payable to the Collector shall not be paid within fifteen days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered, at any time within three years after it became due, with interest at the rate of twelve [5] [and a half] *per centum per annum* calculated from the date on which such instalment became due, and with all costs of recovering the same.

Penalty for default of payment of instalments.

[1] Sub-sections (4a) and (4b) were inserted in section 44 by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 10.

[2] Printed in the Bengal Code, 1905, Vol. IV, p. 341.

[3] For Ben. Act VII of 1876, see the revised edition, as modified up to the 1st April, 1908, published by the Legislative Department of the Government of Bengal.

[4] Sub-section (5) was added to s. 44 by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 7.

[5] These words in square brackets in s. 45 were inserted by s. 8 of the same Act.

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sec. 46.)

With permission of the Lieutenant-Governor, Collector may keep separate account of cesses payable by registered holders of revenue-free estates.

46. (1) In any district to which the Lieutenant-Governor may specially order ^[1] that the provisions of this section shall be extended, it shall be lawful for the Collector to keep a separate account in respect of the amount of cesses payable and paid by any holder of a revenue-free estate who is recorded in Part I of the Collector's general register of revenue-free lands as proprietor or manager of any specified share or interest in any revenue-free property.

(2) Such separate account shall be opened and kept under such rules as to the levy of cess and other matters, and subject to such conditions and in such manner, as the Board of Revenue may from time to time prescribe; ^[2] [and the Collector, if he becomes aware that any separate account opened under subsection (1) does not represent existing facts, may, after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within six weeks of such service, close the account.]

(3) As long as any separate account shall remain open as provided in the ^[3] [preceding clause], and no longer, the joint liability of the holders of such revenue-free estate for payment of the entire amount payable in respect of such estate shall cease; and the Collector shall recover the amount of cess or other demand due in respect of each share or interest for which an account has been so separately kept from the holder or holders of such share or interest only; and, if the Collector shall think fit to proceed under section 99, he shall take action under that section against the share or interest only in respect of which the sum demanded is due and the rents thereof. ^[4]

[1] S. 46 has been extended to the district of Midnapore—see the Bengal Local Statutory Rules and Orders, 1903, Vol. 1, p. 109.

[2] These words in square brackets in s. 46(2) were substituted for the words: "and the Board of Revenue may at any time order that any separate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account" by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 11.

[3] These words in square brackets in s. 46(3) were substituted for the words "preceding section" by the Bengal Cess (Amendment) No. 2, Act 1881 (Ben. Act II of 1881), s. 9.

[4] As to the effect of opening a separate account under this section, see also the Bengal Embankment Act, 1882 (Ben. Act II of 1882), s. 71.

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Secs. 47-49.)

47. Every holder of an estate or tenure to whom any sum may be payable under the provisions of this Act may recover the same, with interest at the rate of twelve and half *per centum per annum*, in the same manner and under the same penalties as if the same were arrears of rent due to him.

Recovery by holders of estates or tenures.

48. Any shareholder in an estate or tenure who may have paid the road cess or public works cess payable in respect of such estate, tenure or any part thereof in excess of the amount proportionate to his own interest in such estate or tenure, may recover from his co-sharers such sums as he may have paid on account of their respective shares and interests, in the same manner and under similar penalties, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Recovery from co-shareholders.

49. Whenever any shareholder in an estate who is recorded in the general register of revenue-paying and revenue-free lands maintained by the Collector,

Recovery by recorded shareholders from their co-sharers by certificate process.

or whenever any shareholder in an estate the extent of whose share or interest in such estate is recorded in any other register kept up by the Collector of lands paying revenue or rent to the Collector direct,

shall have paid the road cess or public works cess payable in respect of such estate, or any part thereof in excess of the amount proportionate to his own interest in such estate,

he may, within [1] [six weeks] of such payment being made, move the Collector to make a certificate, as provided by any law [2] for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate;

and thereupon such Collector may, if he think fit, make such certificate, and such certificate shall have the same effect as a certificate made for the recovery of a public demand [2]; and the

[1] These words "six weeks" were substituted for the words "fifteen days" by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 12.

[2] See now the Public Demands Recovery Act, 1895 (Ben. Act I of 1895) printed in the Bengal Code, 1905, Vol. IV, p. 376.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sec. 50.)

same notices shall be issued and the same proceedings may be taken thereon by the Collector as in case of such certificate :

Provided that the person in whose favour the certificate has been made shall be deemed to be the decree-holder for the sum mentioned in the certificate; and all proceedings taken by the Collector for the recovery of the sums mentioned in the certificate shall be taken at the instance of the person in whose favour the certificate has been made, and at his cost, and on his responsibility, and not otherwise :

Provided also that, if any person against whom such certificate has been made shall object that the amount of the cesses for the recovery of which the certificate has been made is greater than the amount which the applicant for the certificate would recover from such person in a Civil Court as being equitably payable in respect of such person's share or interest in the estate, and if in the opinion of the Collector there is probable ground for such objection, the Collector may, if he see fit, cancel such certificate, and leave the applicant to his remedy in the Civil Court.

CHAPTER IV.

VALUATION AND ASSESSMENT OF LANDS HELD RENT-FREE, AND PAYMENT AND RECOVERY OF CESS IN RESPECT THEREOF.

Rent-free
lands in what
estates or
tenures to be
included for
the purposes
of this Act.

50. All lands held without payment of rent, other than lands mentioned in section 33, and other than estates entered on the general register of revenue-free lands of the district, shall, for the purposes of this Act, be deemed to form a part of any tenure within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any tenure, then to form a part of any estate within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any estate, then to form a part of the estate

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 51, 52.)

in which they were included at the original settlement of such estate; and if there be any doubt as to the estate in which they were so included, then to form a part of such conterminous estate as the Collector, in whose district such conterminous estate is situate, shall by an order under his seal appoint.

51. Every holder of an estate or tenure who is required by this Act to submit a return in the form in Schedule A contained shall be bound to enter in such return all lands of the nature of those specified in section 50, according to the tenor thereof; and shall be bound to pay road cess and public works cess on the annual value of such lands at one-half of the rates fixed under this Act for the levy of such cesses respectively in the district generally for the year.

Holdes of estates and tenures bound to return rent-free lands and to pay cess at half-rates for such lands included therein.

52. Whenever any lands held rent-free shall have been included in the return of any estate or tenure as provided in the last preceding section, the Collector shall, on publication of the valuation-roll of such estate or tenure as provided in section 35, cause to be published a notice, in the form in Schedule D contained, to which notice shall be annexed such extracts from the valuation-roll of such estate or tenure as relate to such lands.

Notice and extracts of valuation-roll to be published by Collector in respect of such rent-free lands.

Such publication may be lawfully made by affixing one copy of such notice and extracts at some conspicuous place in every village within which any such lands are situate,

by depositing another copy of the same at any police-station registration-office or other Government office in the neighbourhood for the inspection of all concerned,

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout every such village, and shall be to the effect that such extracts have been so affixed and deposited, and that the owners and holders of such lands are required to inform themselves, by inspection of such extracts of the valuation put upon their lands, and to pay yearly to the holder of the estate or tenure in the return of which such lands are included the cesses which shall be payable in respect of such lands under the provisions of this Act.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 52A-54.)

Certificate of publication of notices under section 52.

[1] 52A. Whenever any notice has been duly published under section 52, the Collector shall sign a certificate to that effect, and such certificate shall be conclusive proof that the publication has been duly made.

Holder of rent-free land may object to valuation.

53. Within a reasonable time, not exceeding thirty days, after the issue of any process for the recovery of any sum due from him as cess under this Chapter, the owner, holder or occupier of any such land may make before the Collector an objection to the valuation of his land as entered in the valuation-roll so published; and on such objection being made the Collector shall, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of the land in the possession of such owner, holder or occupier, and may alter such roll accordingly, and shall give notice of any such alteration to the holder of the estate or tenure to which such roll relates :

Provided that nothing in this section shall be taken to authorize the Collector to alter any return so as to show any area of land as held rent-free which the maker of such return can show to be accounted for by him in the return as rent-paying land.

Notice to be published by holders of estate in certain cases.

54. In the following cases, that is to say,—

- (1) whenever a new valuation or re-valuation takes effect in any district or part of a district;
- (2) whenever the rate fixed for the levy of the road cess or of the public works cess in any year is changed from the rate at which such cess was levied in the preceding year; and
- (3) whenever the dates fixed by the [2] [Board of Revenue] under section 57 for payment of instalments of the cesses by holders of rent-free land are changed,

the holder of every estate or tenure to whom any cesses are payable in respect of lands held free of rent shall cause a notice to be published in every village in which any such lands are situate,

[1] Section 52A was inserted by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 13.

[2] The words "Board of Revenue" were substituted for the words "Lieutenant-Governor" by s. 5(2) of the same Act.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sec. 55.)

informing all concerned of the rate which has been fixed for the levy of such cesses respectively ; and requiring every owner and holder of any such land of which the cesses are payable to the person who causes the notice to be published to pay the amount of the cesses specified in such notice as it falls due, until a similar notice of change of the amount shall be given.

Such notice shall contain the following information in respect of each tenure and holding of rent-free land which is entered separately in the Collector's valuation-roll :—

- [1] (1) a statement of the quantity, or a description, of the land, as entered in the Collector's valuation-roll ;
- (2) the name of the owner, holder or occupier of such lands, if known ;
- (3) the annual value of such land as entered in the Collector's valuation-roll ;
- (4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public works cess respectively for the year ;
- (5) the amount of the cesses payable in respect of each tenure or holding, calculated at such rates ; and
- (6) the dates fixed by the [2] [Board of Revenue] under section 57 for the payment of each instalment, together with the amount of each instalment.

55. Publication of the notice above mentioned may be law- Mode of publication.
fully made by affixing one copy of the same at some conspicuous place in every village in which any such land is situate ;

by depositing another copy thereof to be available for general inspection at any mal-outherry of the estate or tenure in which

[1] This clause was substituted for the original clause (1) by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 14. The original clause ran thus :—
“(1) a specification of the land in respect of which the cesses are payable.”

[2] The words “Board of Revenue” were substituted for the words “Lieutenant-Governor” by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 5 (1).

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 56-58.)

such land is included, or at any other convenient place in the neighbourhood;

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout such village, and shall be to the effect that such notice has been so affixed and so deposited, that it is open to inspection at the mal-cutcherry or other convenient place as above mentioned, and that every owner and holder of rent-free land is required to inform himself of the contents of such notice and to pay the amount of the cesses due by him accordingly.

Owner of
rent-free
land bound
to pay cess at
full rate.

56. After publication of the extracts from the roll as provided in section 52, and, in cases in which publication of the notice mentioned in section 54 is required, after publication of such notice, and not otherwise, every owner and holder of any rent-free land included in such extracts, and every person in receipt of the rents and profits or in possession and enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in the return of which such land has been included the amount of the road cess and public works cess which may thereafter become due to such holder, calculated on the annual value of such land as entered in such extracts, or on any other annual value which may have been determined by the Collector under section 53, at the full rate or rates which may have been fixed under this Act for the levy of such cesses respectively in the district generally for the year.

Instalments
to be fixed by
Lieutenant-
Governor.

57. The payment of the cesses for each year by the holder of any land which is held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed by the [1] [Board of Revenue.]

If instalments
not paid
within a
month, double
the amount
may be
recovered.

58. When an instalment of the cesses due on any rent-free land is not paid to the holder of the estate or tenure to whom it is due within one month of the date on which such instalment is

[1] The words "Board of Revenue" were substituted for the words "Lieutenant-Governor" by the Bengal Cess (Amendment) Act, 1910 Ben. Act IV of 1910), s. 5(1).

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 59-62.)

payable, such holder shall be entitled to recover a sum equal to double the amount of such instalment due to him under sections 56 and 57, with interest on such sum calculated at the rate of twelve and a half *per centum per annum* from the date on which such instalment was payable, and with all costs of suit :

Provided that such holder shall have paid to the Collector all sums due to such Collector up to date in respect of road cess and public works cess, and not otherwise.

59. If the holder of any estate or tenure shall have omitted to enter in his return (whether such return was made under Bengal Act X of 1871, [1] or under this Act) any rent-free land which he was bound to enter in such return, such holder may at any time after the passing of this Act give in to the Collector a supplementary return showing the necessary particulars in respect of the land so omitted, in the form given in Part IV of Schedule A, and shall thereupon pay to the Collector the amount of the cesses which would have been payable by him to such Collector in respect of such land for the three years next preceding, or for any shorter period which may have elapsed since the estate or tenure was last valued.

Holders of estates, etc., may send in supplementary returns in respect of rent free lands.

60. Such supplementary return shall to all intents and purposes have the same effect as a return duly made under the provisions of section 51 ; and sections 51 to 56 (both inclusive) shall be applicable to and in respect of any rent-free land included in such supplementary return.

Effect of supplementary returns.

61. The provisions of sections 57 and 58 shall be applicable to every amount which, as provided in section 56, may become payable by the owner and holder of any such rent-free land to the holder of a y such estate or tenure after the fulfilment of the requirements in sections 52, 53 and 54 contained.

Sections applicable to amounts payable by owner, etc., of rent-free land.

62. The provisions of section 58 shall not be applicable to any such amount which may have become so payable under the provisions of Bengal Act X of 1871 [1] or of this Act before the

Section 58 not applicable to such amounts until sections 52, 53 and 54 are complied with .

[1] Ben. Act X of 1871 has been repealed by this Act—see s. 3, *ante*, p. 3.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 63, 64.)

fulfilment of the requirements of the sections 52, 53 and 54; but, when any instalment of cess which may have become payable before the fulfilment of such requirements has not been paid to the holder of such estate or tenure on the date on which such instalment was payable, the holder of such estate or tenure may recover the amount of such instalment, together with interest at the rate of twelve and-a-half *per centum per annum* on such amount, and with all costs of suit :

Provided that no holder of an estate or tenure shall recover any amount under the provisions of this section unless he has paid to the Collector all sums which became payable by him to such Collector on account of road cess and public works cess, at any date within the year in which the amount sought to be recovered became payable to such holder of an estate or tenure.

Owner of
rent-free lands
liable to pay
cess in future.

63. As soon as the said requirements shall have been fulfilled in respect of any such land which is included in any such supplementary return, every owner and holder of such land and every person in receipt of the rents and profits, or in possession and enjoyment of such land, shall be bound to pay the amount of the road cess and public works cess which may thereafter become due on such land to the holder of the estate or tenure, in the supplementary return of which such land has been included. Sections 56 and 57 and 58 shall be applicable to the cesses so payable.

Additional
return of
rent-free land
entered in
return under
Ben. Act X of
1871 may be
made.

64. (1) Every holder of an estate or tenure who has included any rent-free lands in any return made to the Collector in respect of his estate or tenure under the provisions of the Bengal Act X of 1871, [1] and has paid to the Collector any cess payable under the said Act, or under the Bengal Act II of 1877, [2] in respect of the said rent-free lands, may at any time after the commencement of this Act give in to such Collector an additional return, in the form given in Part IV of Schedule A.

Additional
return to be

(2) Such additional return shall be deemed to be a supplementary return within the meaning of section 59, and from the

[1] Ben. Act X of 1871 has been repealed by this Act—see s. 3, *ante*, p. 3.
[2] Ben. Act II of 1877 has been repealed by this Act—see s. 3, *ante*, p. 3.

(*Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 64A, 64B.*)

date of the inclusion of any such lands in such additional return the same consequences shall ensue, and the same rights and obligations accrue to the Collector and to the holder of such estate or tenure, and the same liabilities shall attach to the owner, holder and occupier of such lands, as would have attached to them respectively if such lands had been included in a supplementary return given in under section 59.

[1] 64A. All sums due to the holder of any estate or tenure under the provisions of this Chapter, in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same, by any means and any process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding, and subject to the same rules as to limitation :

Holders of estates, etc., how to recover from holders of rent-free lands.

Provided that, if any such objection as is mentioned in section 53 has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

[1] 64B. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof: and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer.

Owner, holder or occupier of rent-free lands may be sued. Decree against occupier tantamount to decree against owner.

[1] Ss. 64A and 64B were inserted by the Bengal Cess (Amendment No. 1) Act, 1881 (VII of 1881), and are to be deemed to have been inserted from the date on which Ben. Act IX of 1880 came into force—see Act VII of 1881, printed in the Bengal Code, 1905, Vol. 1, p. 170.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 65-67.)

Occupier* may deduct cess paid from rent.

65. Whenever any occupier of land which is held rent-free by the owner thereof shall have paid any sum as cess due in respect of such land to any holder of an estate or tenure to whom such cess is payable, such occupier shall be entitled to deduct the sum so paid by him from the rent next thereafter payable by him to the owner of such land until such sum is fully adjusted.

Notice to be served on holder of rent-free land requiring him to lodge return.

66. Notwithstanding anything in this Chapter contained, the Collector may at any time cause a notice as mentioned in section 16 to be served on the holder of any rent-free land which he shall consider not to have been entered in the return of any estate or tenure in which such land ought to have been included under the provisions of section 51.

Such notice shall require the holder of such land to lodge at the office of the said Collector a return, in the form in Schedule A contained, in respect of such land ;

and on service of such notice the provisions of this Chapter shall no longer apply to such lands ; but the same consequences shall ensue and the same liabilities shall attach to the holder of such land as would have ensued and would have attached if such lands had constituted a revenue-free estate.

If the Collector has reason to believe that any land in respect of which he determines to serve such notice has been included in the return of any estate or tenure, he shall give notice of his intention to the holder of such estate or tenure, and shall alter such return as may be requisite, and shall correct the valuation and assessment of such estate or tenure as may be required.

If no notice served, such holder bound to notify omission to Collector.

67. If within one year of the commencement of this Act no notice has been served as mentioned in section 66 on the holder of any rent-free land requiring him to lodge a return in the office of the Collector, and if such land has not been included in any extracts from the returns of estates and tenures published by the Collector under section 52 or other similar section, the holder of such rent-free land shall be bound, within one month of the expiration of such year, to give information of such omission to the

(*Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 68-70.*)

Collector, together with a description of the said land, a specification of the village or villages within which it is situate, the area in each village, and the amount of rent payable to him thereupon :

Provided that no holder of rent-free land who at any time after the expiration of the time prescribed shall of his own motion and otherwise than after the issue of any notice by the Collector in respect of his lands give such information to the Collector shall be liable to prosecution for omitting to give such information within the prescribed time.

68. On receipt of such information, whether within the time prescribed or after the expiration thereof, the Collector may, by an order in writing, require such owner or holder to make a return of his land, in the form in Schedule A contained, or, if the gross rental of such land does not exceed one hundred rupees, may order that such land shall be summarily valued under section 27 or section 28, and may proceed to make such valuation.

Collector thereupon may require such holder to make return.

69. Every order made by a Collector under the last preceding section shall have the same effect and be followed by the same consequences as the issue of a notice by the Collector under section 66.

Order to have effect of notice.

70. As soon as any rent-free land, which had not previously been included in the valuation of any estate or tenure, has been valued by the Collector after the issue of a notice as provided in section 66, or after an order made under section 68, the holder of such land shall become liable to pay to the Collector the road cess and the public works cess due on such land, in accordance with such valuation, for the three years last preceding such valuation, at the full rates at which such cesses were respectively levied for each such year in the district generally, together with interest calculated at twelve and a half *per centum per annum* on each instalment from the date on which such instalment would have been payable if such valuation had been in force.

Liability of such holder to pay arrears of cesses.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 71, 72.)

Such holder is not liable to pay cesses except to Collector or his Deputy.

71. No owner or holder of rent-free land on whom a notice has been served by the Collector under section 66, or in respect of whose land an order has been made by the Collector under section 68, shall be liable to have the land to which such notice or order refers included in any return of an estate or tenure, or to pay any amount as road cess or public works cess otherwise than to the Collector or to some person appointed by him in that behalf, unless, on a re-valuation of any estate or tenure being made, the Collector shall by an order in writing direct that for the future such land shall be included within such estate or tenure for the purposes of this Act ;

and, upon such order being made, the provisions of this Chapter, in so far as they are applicable, shall apply to the assessment and payment of road cess and public works cess in respect of such land.

CHAPTER V.

VALUATION, ASSESSMENT AND LEVY OF CESSES ON MINES, RAILWAYS AND OTHER IMMOVABLE PROPERTY.

Notice to return profits.

72. On the commencement of this Act in any district, and thereafter before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, chief agent, manager or occupier of every mine, quarry, tramway, railway and other immovable property not included within the provisions of Chapter II, and not being one of the tramways or railways mentioned in section 8 ; such notice shall be in the form in Schedule E contained, and shall require such owner, chief agent, manager or occupier to lodge in the office of such Collector within two months a return of the net annual profits of such property, calculated on the average of the annual net profits thereof for the last three years for which accounts have been made up.

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 72A, 73.)

Such Collector may in his discretion extend the time allowed for lodging such return.

[1] 72A. (1) Any owner, chief agent, manager or occupier who, without sufficient cause being shown to the satisfaction of the Collector, refuses or omits to lodge the required return in the office of the Collector within two months from the date of the service upon him of a notice under section 72, or within any extended time which may have been allowed by the Collector for lodging such return, shall be liable to a fine which may extend to fifty rupees for every day after expiration of such time or extended time until such return is furnished, or until the annual net profits of the property in respect of which the notice has been served shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

Penalty for omitting to lodge a return.

(2) The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or section 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner otherwise directs.

(3) Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

73. Whenever any property assessable under this Chapter lies in two or more districts, the notice to furnish a return under section 72 shall be served on the owner, chief agent, manager or occupier of such property by or through the Collector of the district in which such owner, chief agent, manager or occupier may reside or have his chief place of business, and one return for the whole of such property shall suffice.

When property lies in different districts.

[1] Section 72A was inserted by the Bengal Cess (Amendment) Act, 1910 (Bengal Act IV of 1910), s. 15.

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 74-78.)

When property is partly in and partly outside Bengal.

74. Whenever any property assessable under this Chapter lies partly within and partly outside the territories administered by the Lieutenant-Governor of Bengal, the return furnished as required by section 72 shall state the total annual net profits calculated as aforesaid accruing from such property, and also the proportion of such profits which may reasonably be calculated to accrue in the territories administered by the Lieutenant-Governor of Bengal.

If return not furnished or incorrect, Collector to make valuation.

75. If such return be not furnished within the period of two months from the date on which such notice was served, or within any extended time allowed by the Collector of the district, or if such Collector shall deem that any return made in pursuance of such notice is untrue or incorrect, such Collector shall proceed to ascertain and determine, by such ways or means as to him shall seem expedient, the annual net profits of such property, calculated as aforesaid.

Valuation on value of property.

76. If such Collector be unable to ascertain the annual net profits as aforesaid of any property assessable under this Chapter, he may, by such ways or means as to him shall seem expedient, ascertain and determine the value of such property, and shall thereupon determine six *per centum* on such value to be the annual net profits thereon.

Cost of valuation from whom to be recovered.

77. The expenses incurred in making any valuation under section 75 or section 76 may be recovered, together with all costs of the recovery thereof, as provided in section 98, from the person who was bound to make such return or who made the incorrect return.

Notice of valuation.

78. So soon as such Collector shall have ascertained and determined the annual net profits as aforesaid of any such property, he shall cause to be served upon the owner, chief agent, manager or occupier of such property a notice informing him of the amount of the annual net profits so ascertained and determined by him.

(*Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immoveable Property.—Secs. 79-81.*)

79. New valuations under this Chapter shall be made by the Collector of the district every year, and such Collector may for that purpose cause such notices to be issued and served, and such returns to be made, and shall have such powers and authorities, as are in this Part mentioned and conferred : Valuations under this Chapter to be annual.

Provided that, whenever any return made under section 72 shall be accepted by the Collector for any year, the owner, chief agent, manager or occupier of such property may, if he see fit, declare in writing at the time of such acceptance that the annual net profits set forth in such return may, for the purposes of this Act, be deemed to be the annual net profits for each of the five years then next ensuing ; Declaration of annual net profits by owner for five years.

and, if the Collector of the district shall agree to accept such declaration, no new valuation shall be made of such property until the said five years shall have expired. Effect of acceptance by Collector of declaration.

80. When the rate of road cess and public works cess to be levied in the district upon property assessable under this Chapter shall have been determined for any year as in this Act provided, the Collector of the district shall cause to be served on the owner, chief agent, manager or occupier of every such property a notice showing the amount of road cess and public works cess respectively payable in respect of such property, and specifying the date from which such cesses shall take effect. Notice of rate of cess and dates of payments.

And such amount shall be payable by such owner, chief agent, manager or occupier to such Collector in two equal instalments—the first on the expiry of six months, the second on the expiry of nine months, after the date fixed as hereinbefore provided for the commencement of the year.

81. In any case in which the occupier of such property is a different person from the owner, and has paid in excess of half of the sum due as road cess and public works cess on account of any instalment, such occupier shall be entitled to deduct the amount of such excess from the next and subsequent instalments of rent payable in respect of such property ; and every owner who Recovery by occupier or owner who has paid in excess.

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 82-84.)

has paid in excess of half of such sum due shall be entitled to recover the amount of such excess from the occupier :

Provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road cess and public works cess on every rupee thereof.

How distributed when property in different districts.

82. The total of the cesses payable in respect of property assessable under this Chapter owned or occupied by the same person in two or more districts, shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion in which the [1] committees of such districts shall be severally entitled thereto, as provided in the section next following.

Determination of proportion of profits when property in different districts.

83. Whenever any property assessable under this Chapter lies in two or more districts, the Lieutenant-Governor shall from time to time determine, out of the total annual net profits stated in the return, or in the valuation of such profits accruing in the territories subject to him, and ascertained in any manner as aforesaid, the proportions in which such property shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the [1] committee of each district concerned.

Service of notices under this Chapter.

84. Every notice under this Chapter may be served—

- (a) by leaving it at the registered office (if any) of such owner, chief agent, manager or occupier aforesaid; or
- (b) by sending it by post in a letter addressed to such owner, chief agent, manager or occupier at his office

[1] In districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force, the words "district road funds" have been substituted for "committees," and "district road fund" for "committee," in ss. 82 and 83, respectively—see s. 2 and Sch. II of that Act, printed in the Bengal Code, 1905, Vol. II, pp. 640, 678.

(Part II.—Mode of Assessment.—Chapter VI.—Special Provisions for Orissa and Midnapore.—Secs. 85-87.)

or, if he have more offices than one, at his principal office ; or

(c) by giving it to such owner, chief agent, manager or occupier.

CHAPTER VI.

SPECIAL PROVISIONS FOR ORISSA AND MIDNAPORE.

85. In any district of the province of Orissa, and in the district of Midnapore, the Collector may at any time, with the sanction of the Commissioner, order that any revenue-free estate not exceeding five hundred standard bighas in extent, of which the valuation shall have been completed, shall, for the purpose of payment and levy of the cesses due in respect thereof, be annexed to any other estate within the ambit of which it is situate or which it adjoins.

Collectors in Orissa and Midnapore may order certain revenue-free estates to be annexed to other estates for purposes of payment of cess.

86. Notice of such order shall be given by the Collector to the holder of the estate to which such revenue-free estate is ordered to be so annexed, and to such notice shall be appended a copy of the valuation-roll of the said revenue-free estate, and thereupon such holder shall be liable to pay annually to the Collector, on account of such revenue-free estate, road cess and public works cess at one-half of the rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Notice to be given to holder of estate to which such revenue-free estate is annexed.

87. Notice of such order shall also be given by the Collector to the holder of the said revenue-free estate, and such notice shall require him to pay annually, and he shall thereupon be bound to pay to the holder of such other estate road cess and public works cess at the full rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Notice to be given to holder of revenue-free estate.

(Part II.—Mode of Assessment.—Chapter VI.—Special Provisions for Orissa and Midnapore.—Chapter VII.—Miscellaneous.—Secs. 88 91.)

Cesses payable by holder of revenue-free estates in such instalments as Lieutenant-Governor may direct.

88 Such cesses shall be so payable by the holder of the said revenue-free estates in two equal instalments, on such dates as may be fixed by the Lieutenant-Governor under section 42 for the payment of cess by the holders of revenue-free estates, or in such other instalments and on such other dates as the Lieutenant-Governor may direct, or, if the Lieutenant-Governor shall so order, the whole amount so payable on account of such cesses for each year shall be payable in a single sum on any such date as the Lieutenant-Governor may appoint.

In default of payment as hereby required, the provisions of section 47 shall be applicable.

Notices to be served.

89. Whenever the service of a notice on the holder of a revenue-free estate is required by the provisions of section 40, the Collector shall cause such notice to be served, notwithstanding that the revenue-free estate may have been annexed to another estate as hereinbefore provided :

and the Collector shall further cause a notice containing the same particulars to be served in respect of such revenue-free estate on the holder of the other estate to which it is under the provisions of section 85 annexed.

Collector may revoke orders passed under section 85.

90. The Collector may at any time, with the sanction of the Commissioner, revoke any order passed under section 85, and shall give notice of such revocation both to the holder of the revenue-free estate affected and to the holder of the other estate to which such revenue-free estate was annexed.

CHAPTER VII.

MISCELLANEOUS.

Collector may appoint certain establishments.

91. The Collector, with the sanction of the Board of Revenue, may appoint such establishments as may be required for making valuations and re-valuations under this Act, for making collections recovering arrears, keeping accounts connected therewith, and generally for all purposes connected with such valuations

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Secs. 91A-95.)

revaluations, collections and recoveries, and other purposes of this Act, and may incur such other expenses as are requisite for such purposes ;

and the payment of such establishments and other charges on bills signed by the Collector shall be the first charge on the District Road Fund.

[1]91A. The Collector may, with the sanction of the Commissioner, pay to any person appointed by him to collect the road cess and public works cess such percentage of the total amount collected by such person as to him may seem fit.

Payment of commission to tahsildars.

92. For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by clause 1 of section 23 and clause 1 of section 24 of Regulation VII of 1822,[2] except so far as the said clauses authorize any inquiry into rights or interests attaching to such lands.

Powers of Collector in making valuation.

93. Every valuation under this Part shall be open to revision by the Commissioner or Board of Revenue, and not otherwise.

Commissioner or Board may revise valuation.

94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same.

False returns.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly.

[3]* * * *

95. Every return filed by or on behalf of any person in pursuance of the provisions of this Part shall bear the signature and address of such person, or his authorized agent, and shall be admissible in evidence against such person, but shall not be admissible in his favour.

Returns evidence against the maker only.

[1] Section 91A was inserted by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 16.

[2] The Bengal Land-revenue Settlement Regulation, 1822. It is printed in the Bengal Code, 1905, Vol. II, p. 539.

[3] The words "And, if the person so prosecuted is convicted, the Collector may proceed to make a valuation of the lands mentioned in such return by such ways and means as to him shall seem expedient," which were repealed by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), s. 17, have been omitted.

*(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Secs. 96, 97.)*

Service of
notices under
this Part.

96. Every notice under this Part required to be served, except as otherwise expressly provided, may be served—

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent authorized to appear generally for the person to whom such notice is directed; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to reside; or
- (3) by posting a copy of the notice at the mal-outcherry of the estate or tenure to which the notice relates, or, if no such mal-outcherry be found, on some conspicuous place on such estate or tenure: and, in the case of estates paying their annual revenue by four instalments, by delivering another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice. In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

Costs of
service.

97. The costs of service of every notice and process by this Act required to be served shall in the first instance be defrayed from the District Road Fund, and, subject to such rules as may be made by the Board of Revenue under section 106, shall be recoverable either from the person to whom such notice or process is addressed, or from the person owing to whose default such notice or process is issued, as the Collector may think fit; and every such amount shall be deemed to be due to the Collector, but when levied by the Collector shall be credited to the District Road Fund:

No costs to be
recovered for
certain notices.

Provided that no costs or other expenses whatever shall be recovered from any person in respect of the publication or issue of any proclamation or notice calling for any return, or giving

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Secs. 98, 99.)

intimation of any amount payable by any person as cess under this Act other than notices of demand to pay any amount of cess which has become due.

[¹]98. Every amount due, or which may become due, to any Collector under the provisions of this Act in respect of any arrears of cess, of any expenses incurred, of any fee or costs payable, of any notices served, of any fines imposed, or on any other account, may be realized by such Collector by any process provided by any law [²] for the time being in force for the realization of public demands; and shall be deemed to be a public demand under such law :

Dues under the Act to be levied as public demand.

Provided that the [³] *district road committee* shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

[¹]99. Instead of proceeding as provided by the last preceding section for the recovery of any sum due under this Act, or if after so proceeding the Collector shall have failed to find property belonging to the person from whom any such sum is due, by the sale of which such sum may be fully recovered, the Collector may, if he see fit, after recording his opinion to that effect, cause a notification, in form in Schedule F contained, to be issued for the estate or tenure in respect of which any such amount is due.

Collector may recover dues out of rent.

Such notification shall be published by beat of drum in every village containing any land to which such notification relates, and a copy thereof shall be posted in a conspicuous place in every such village and at the mal-cutcherry of the estate or tenure to which such notification relates, if such outcherry be found.

[¹] Ss. 98 and 99 are also applicable to the recovery of fines imposed under s. 18—see s. 18, *ante*, p. 12; and s. 98 is also applicable to the recovery of certain other sums—see s. 77, *ante*, p. 44. As to the recovery of cesses in respect of Mundari Khunt Kattidari tenancies in Chota Nagpur, see the Chota Nagpur Tenancy Act, 1908 (Ben. Act VI of 1908), s. 214.

[²] See now the Public Demands Recovery Act, 1895 (Ben. Act I of 1895), printed in the Bengal Code, 1905, Vol. IV, p. 376.

[³] In districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force, for the words printed in italics in s. 98 the words "*district road fund*" have been substituted—see s. 2 and Sch. II of that Act, printed in the Bengal Code, 1905, Vol. II, pp. 640, 678.

*(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Secs. 100, 101.)*

Every payment of rent, save and except to the Collector of some person by him thereunto appointed, made after such publication, until further order from the Collector, shall be null and void ;

and the Collector may recover by any process of law for the time being in force, by which he might recover rent due to the Government from a tenant in an estate which is managed directly by the Collector, the rent then or thereafter to become due from any occupier, tenure-holder, under-tenant or raiyat on the estate or tenure in respect of which the notification has been issued, until the amount due to the Collector together with all costs shall be satisfied, whereupon the said notification shall be revoked. *

The receipt of the Collector in respect of all sums paid to him as rent or so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by the occupier, tenure-holder, under-tenant or raiyat to whom such receipt is given.

Collector's
claim to have
priority.

In case the Collector shall see fit so to proceed, the claim for arrears of road cess and public works cess due from any estate or tenure in respect of which a notification has been issued as above provided shall have priority over any other demand or claim or lien existing thereupon other than the demand of Government-revenue.

Lieutenant-
Governor may
invest any
person with
Collector's
powers.

100. The Lieutenant-Governor may at any time invest any person with the powers of a Collector under this Part, to be exercised by such person under the control or supervision of the Collector, or independently of such control and supervision, as the Lieutenant-Governor shall direct.

Collector
delegate
powers, may

101. The Collector may, with the sanction of the Commissioner, delegate all or any of his powers and functions under this Part to be exercised, under the control and supervision of the Collector, by any Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer of like rank :

Provided that every order passed by such Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer shall be appealable to the Collector within fifteen days of such order being passed.

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Secs. 102-105.)

102. Every person who shall deem himself to be aggrieved by any valuation made by a Collector under the provisions of section 75 or 76 may, within one month after the issue of the notice mentioned in section 78,

Appeals
against
valuation.

and,[¹] [subject to anything contained in Chapter IIA], every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this Part,

may, within one month after the posting up of a copy of the valuation-roll as mentioned in section 35,

prefer his objections to the Collector;

and, if such objections, or any of them, are disallowed, may, within one month of such disallowance, appeal to the Commissioner against such valuation, and the decision of the Commissioner shall be final.

103. Every order for the levy of a fine or of expenses, passed by a Collector under this Act, shall be appealable to the Commissioner within one month from the service of the first process for the levy of such fine or expenses.

Orders for
levy of fine
appealable.

Except as otherwise provided in section 18, pending such appeal, and until the order of the Commissioner, which shall be final, all process for such levy shall be discontinued.

104. Every order passed by the Collector under sections 19, 20, 26 [²], [46 (2)], 50, 51, 53, 85, 98 or 99 shall be appealable to the Commissioner within one month from the date of such order.

Orders appeal-
able to Com-
missioner.

[³]105. Notwithstanding anything hereinbefore contained,—

(a) the Collector may at any time revise any order made under this Part by himself or by any officer subordinate to him, unless an appeal against such order has been preferred, and

Revision of
orders by
Collector, and
control and
supervision by
Commissioner
and Board.

[¹] These words in square brackets were inserted in section 102 by the Bengal Cess Amendment Act, 1910 (Ben. Act IV of 1910), s. 18.

[²] The figures "46(2)" were inserted in s. 104 by s. 19 of the same Act.

[³] This section was substituted for the original section 105 by s. 20 of the same Act.

(Part II.—Mode of Assessment—Chapter VII.—Miscellaneous.—
Sec. 106.)

- (b) all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the Board of Revenue, and all proceedings of the Commissioner under this Part shall be subject to the general control and supervision of the Board of Revenue.

Board may
make rules.

106. The Board of Revenue may from time to time make, and, when made, from time to time alter, add to or cancel, any rules—

- (a) prescribing forms for the notices, returns and valuation-rolls required by this Part to be issued or made ;
- (b) prescribing the amounts which shall be levied in respect of the issue of each notice and process under this Part, and regulating the recovery thereof under section 97 ;
- (c) prescribing the amount of copying fee to be levied in respect of supplying extracts and copies of returns and valuation-rolls as provided in section 34 ;
- (d) apportioning the amount of the cesses for the payment of which the respective holders of the several shares of an estate in respect of which separate accounts are kept shall be primarily liable under section 44 ;
- (e) regulating the opening, keeping and closing of separate accounts in respect of amounts of cess payable by recorded shareholders in revenue-free estates as provided in section 46 ;
- (f) regulating the proceedings of the Collectors under Chapter V ;

and otherwise providing for the proper execution of this Act in respect of valuations of the assessment and of the levy of the cesses and other sums due under the same.

(Part II.—Mode of Assessment.—Chapter VII. —Miscellaneous.—

Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and Application of the District Road Fund.—Secs. 107, 108.)

107. Nothing in this Part contained, and nothing done in accordance with this Act, shall be deemed to affect the rights of any person in respect of any immovable property or of any interest therein except as otherwise expressly provided in this Act.

All rights in immovable property saved unless affected by this Act.

PART III.

CONSTITUTION AND ADMINISTRATION OF THE DISTRICT ROAD FUND.

CHAPTER VIII.

CONSTITUTION AND APPLICATION OF THE DISTRICT ROAD FUND.

108. The District Road Fund of every district under this Act shall consist of the amount produced by the road cess,

Constitution of district road fund,

of all sums levied or recovered as fines, penalties or otherwise in respect of the cesses under this Act [1] [not being interest levied in respect of public works cess,]

of all sums assigned by the Government thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise, [2] and

of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed.

[1] These words in square brackets in s. 108 were inserted by the Bengal Cess Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 10.

[2] The words printed in italics in s. 108 are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force—see s. 2 and Sch. II of that Act, printed in the Bengal Code, 1905, Vol. II, pp. 640, 678.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and Application of the District Road Fund.—Sec. 109.)

Application of
district road
fund.

[1]109. The district road fund of every district shall be applicable to the following objects and in the following order :—

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector as mentioned in section 91 ;

to the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable in the course of the proceedings for the assessment and collection of the cesses under this Act ;

and to the payment of such sums as may be determined by the Lieutenant-Governor for the purposes mentioned in section 181, subject to the limit imposed in that section :

[1] In districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force, the following has been substituted for s. 109 (*see* s. 2 and Sch. II of that Act, as amended by section 64 of Bengal Act V of 1908) :—

Application
of district road
fund.

" 109. The district road fund of every district shall be applicable to the following objects and in the following order :

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.

Secondly.—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable in the course of the proceedings for the assessment and collection of the cesses under this Act.

And the balance, after payment of such expenses, shall be credited to the district fund of the district ; and shall be applicable to the following objects, and in the following order, namely :—

- (a) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885, from time to time have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable, and the repayment of such loans ;
- (b) the payment of the percentage referred to in clause *Thirdly* of section 53 of the said Act ;
- (c) the payment of such of the salaries, pensions, gratuities, grants and percentages referred to in clause *Fourthly* of the said section as are required for members of establishments employed for improving the means of communication within the district or between the district and other districts ;
- (d) the payment of such of the expenses referred to in clause *Fifthly* of section 53 of the said Act as are incurred in improving the means of communication within the district, or between the district and other districts, or in carrying out the provisions of section 79 of the said Act ;
- (e) the payment of the expenses referred to in clause *Seventhly* of section 53 of the said Act ; and
- (f) the making of investments referred to in clause *Eighthly* of the said section 53.*

Ben. Act III
of 1885.

In such districts the balance of the district road fund, after payment of the expenses mentioned in this new section 109, is to be placed to the credit of the " District Fund "—*see* s. 52 (1) of the Act of 1885.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter VIII.—*Constitution and Application of the District Road Fund*—Sec. 109.)

Secondly.—To the payment of establishments entertained and expenses incurred by the district road committee for the purposes of this Act, and of any leave-allowances, gratuities or pensions which may be payable under this Act :

Thirdly.—To the payment of any sums which the committee may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between the district and adjacent districts :

Fourthly.—To the repair and maintenance of roads, bridges, water-channels and other means and appliances for facilitating communications which have been taken charge of by the committee under this Act, or towards which they may have agreed to contribute :

Fifthly.—To the construction of new roads, bridges, water-channels and other means of communication ;

to the construction, provision, repair and maintenance of any means and appliances for facilitating communication within the district or between the district and adjacent districts which the committee may determine to construct or to take charge of, or towards which they may determine to contribute ;

to the planting of trees by the roadside ; and

to the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage : and

Sixthly.—To investment in any local debenture loans issued by the Government of India or the Lieutenant-Governor for the construction of productive works, which may directly improve the means of communication within the district, or between the district and adjacent districts :

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and Application of the District Road Fund.—Sec. 110.)

Provided—

Provisoes.

(1) that no sum shall be expended from the district road fund in the construction of any channel for the purposes of irrigation,

or for the purposes of drainage connected with any irrigation-works in charge of public officers,

or for the improvement or maintenance of any water-channel on which tolls are levied, when the proceeds of such tolls are not paid into the district road fund ;

(2) that no part of the district road fund of any district shall be applied to the construction or maintenance of any road within any first or second class municipality under the Bengal Municipal Act, 1876, [1] unless such road shall have been expressly excluded from the operation of the said Act under section 32 thereof ; and

Ben. Act V of 1876.

(3) that no part of the district road fund of any district shall be expended on any work or for any purpose without the limits of such district, unless the special sanction of the Lieutenant-Governor to such expenditure shall have been obtained, as being for the benefit of the district charged.

Committee may guarantee sums for district road fund as interest on capital.

[2] 110. With the sanction of the Lieutenant-Governor, the committee may from time to time undertake to guarantee the annual payment from the district road fund of such sums as they shall think fit, as interest on capital expended on any works which may directly improve the means of communication within the district, or between the district and other districts.

[1] Ben. Act V of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act III of 1884). A revised edition of the latter Act, as modified up to the 1st December, 1908, has been published by the Legislative Department of the Government of Bengal.

[2] Ss. 110 to 181 are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force—see s. 2 and Sch. I of that Act, printed in the Bengal Code, 1905, Vol. II, pp. 640, 678.

As to transfer of roads, bridges, channels, buildings and other property from District Road Committee and Branch Committees to District Boards and Union Committees, see the same Act, s. 73.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and Application of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 111-114.)

[¹] 111. Whenever any works to which any portion of the road fund of any district is applicable under the last preceding section extend over more than one district, the Lieutenant-Governor may decide the proportions in which the road fund of each district concerned shall contribute towards the cost or interest upon the cost of such works. Lieutenant-Governor may apportion costs of works extending over more than one district.

CHAPTER IX.

THE DISTRICT ROAD COMMITTEE.

[¹] 112. For the administration of the district road fund and for the construction, repair and maintenance of district roads, bridges, water-channels and other works as aforesaid under this Act, the Constitution of district road committee.

[²] [Commissioner] shall from time to time appoint, or cause to be elected, under such rules in regard to qualification, election and discharge as may by him be prescribed, any number of the payers of road cess of such district, their managers or agents, to be members of a district road committee.

[¹] 113. Every member of the committee may hold office for five years from the date of his appointment or election, and the [²] [Commissioner] may at any time before the expiration of such term of five years accept the resignation of such member. Members may hold office for five years. Resignation of member.

[¹] 114. The Lieutenant-Governor may remove any member appointed or elected under this Act, if such member shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct. Removal of member.

[¹] As to the local repeal of ss. 111 to 114. see foot-note on p. 58, ante.

[²] This word "Commissioner" in ss. 112 and 113, was substituted for the words "Lieutenant Governor" by the Bengal Cess (Amendment) Act, 1910 (Ben. Act. IV of 1910), s. 21.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 115-120.)

Members who neglects to attend meetings, or is sentenced to imprisonment, to cease to be member.

[¹] 115. Any member who, without having obtained permission from the committee, shall have omitted to attend six consecutive meetings of the committee,

and any member who shall have been sentenced to imprisonment, shall cease to be a member of the committee.

Appointment of ex-officio members.

[¹] 116. In addition to the members appointed or elected as aforesaid, the Lieutenant-Governor may appoint any officer of Government to be a member of the committee, and may direct, by a writing signed by him, that all persons holding the offices in such writing specified shall be ex-officio members of the committee for any district in which they exercise the said offices, and in which this Act shall have come into force :

Members holding salaried offices under Government not to exceed one-third.

Provided that the number of members of the committee holding salaried offices under the Government shall not be more than one-third of the total number of the committee.

Proceedings not to be invalidated by reason of excessive proportion of officials.

[¹] 117. No act or proceedings of the committee shall be invalidated by reason that at the time of doing such act or taking such proceedings the number of members of the committee as then existing, who were holding salaried offices under the Government, was greater than the proportion mentioned in the last preceding section ; and no act or proceedings of any meeting shall be invalidated by reason of the proportion of members holding such salaried offices as aforesaid present at the same being greater than as provided by the said section.

Their mode of transacting Business.

Chairman and Vice-Chairman of committee.

[¹] 118. The Collector of the district shall be the Chairman of the committee, and the Vice-Chairman shall be appointed as provided in section 129.

Committee to have an office.

[¹] 119. The committee shall have an office within the district in and for which they shall have been appointed, and shall meet for the transaction of business at least once in every quarter of a year.

Two kinds of meetings.

[¹] 120. There shall be two kinds of meetings for the transaction of business, namely, special meetings and ordinary meetings.

[¹] As to the local repeal of ss. 115 to 120, see foot-note on p. 58, ante.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 121-124.)

[¹] 121. Meetings of the following descriptions shall be special What are special meetings. meetings :—

- (1) any meeting convened by the Chairman under section 123 ;
- (2) for the election of a Vice-Chairman under section 129 ;
- (3) for determining the salary of the engineer under section 131 ;
- (4) for the election of an engineer under section 132 ;
- (5) for determining the details of establishment, and the salaries to be attached to each office, under section 133 ;
- (6) for making rules for leave of absence under section 134, and for pensions and gratuities under section 138 ;
- (7) for considering and passing the general statement under section 141 or any revised or supplemental statement under section 143 ;
- (8) for preparing and framing an estimate of income and expenditure, and for determining the rate of road cess for the coming year under sections 146 and 148 ;
- (9) for amending any such estimate under section 157 ;
- (10) for receiving and considering the annual report and accounts under section 179 ;

All other meetings shall be ordinary meetings.

[¹] 122. The Chairman, or, in case of his absence at the time appointed for the meeting, the Vice-Chairman, shall preside at every President at meeting. meeting of the committee. In the absence of both the Chairman or Vice-Chairman, the members present may choose one of their number to be President of such meeting.

[¹] 123. The Chairman, or, in case of his absence, the Vice-Chairman, may, whenever he thinks fit, and shall, upon a requisition Meeting to be called on requisition. made in writing and signed by not less than one-third of the members, convene a meeting.

[¹] 124. At least ten days' notice shall be given of every meeting. Notice of meeting. Every notice shall state the business to be transacted at the meeting proposed to be called; and no business other than that so stated shall be transacted at such meeting, except with the permission of the meeting.

[¹] As to the local repeal of ss. 121 to 124, see foot-note on p. 58, *ante*.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 125-127.)

Quorum.

[¹] 125. (1) *No business shall be transacted at any special meeting unless at least one-fourth of the total number of members forming the committee at the time of the meeting are present at the commencement and close of such business; and no business shall be transacted at an ordinary meeting unless at least three members are so present.*

Delegation of powers to sub-committee.

(2) *The committee may delegate any of their powers to sub-committees consisting of such member or members of their body as they think fit. Any sub-committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the committee.*

Adjournment, voting, etc., of committee.

(3) *The committee may hold meetings and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and, in case of an equal division of votes, the President shall have a second or casting vote.*

Adjourned meeting.

[¹] 126. *If at the time appointed for a special meeting, or within one hour thereafter, a quorum is not present, the meeting shall stand adjourned till some future day to be appointed by the Chairman or Vice-Chairman of the committee, and ten days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be.*

Minute book to be kept.

[¹] 127. *The minutes of the proceedings of every meeting shall be recorded in a book to be kept for that purpose in the office of the committee, and any person resident in, or owning or holding land in, the district may at all reasonable times inspect and examine such book without payment of any fee, and may obtain a certified copy of any extract therefrom on payment of such fees as the Lieutenant-Governor may direct.*

At the request of any member of the committee who is not acquainted with the English language, the Chairman shall cause to be

[¹] As to the local repeal of ss. 125 to 127, see foot-note on p. 58, *ante*.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 128-130.)

delivered to such member an abstract of the minutes of any meeting in the vernacular of the district.

[¹] 128. All correspondence between the committee and the Lieutenant-Governor shall pass through the office of the Commissioner, ^{Correspondence between committee and Lieutenant-Governor.} who in all things under this Part shall be subject to the control and supervision of the Lieutenant-Governor.

The committee shall furnish the Lieutenant-Governor and the Commissioner respectively with any information for which they may ^{furnish in-} call, connected with the duties imposed upon them by this Act.

Their Vice-Chairman, Engineer and Establishment.

[¹] 129. The first meeting of the committee shall be convened by ^{Appointment of Vice-Chairman.} the Chairman at such time as he shall think fit, and shall proceed to nominate one of the members of the committee to be Vice-Chairman of the committee, and shall submit to the Lieutenant-Governor the name of the person so nominated; whereupon the Lieutenant-Governor may, if he think fit, appoint such person to be Vice-Chairman of the committee, or may require the committee to nominate and to submit to him the name of some other person, and whenever the office of Vice-Chairman shall be vacant a Vice-Chairman shall be nominated and appointed in the manner above mentioned.

Provided that, whenever the office of Vice-Chairman shall become vacant, the Chairman may, with the approval of the Commissioner, ^{Vice-Chairman may be appointed ad interim.} appoint any member of the committee to be Vice-Chairman thereof ad interim, until the vacancy shall have been filled up by appointment as above provided.

The Vice-Chairman may hold office for a period not exceeding two years, and at the expiration of that time may be re-nominated by the committee and re-appointed to the office by the Lieutenant-Governor. ^{Vice-Chairman may hold office for two years.}

[¹] 130. The Lieutenant-Governor may, if he think fit, upon the recommendation of two-thirds of the members voting at any special ^{Removal of Vice-Chairman.}

[¹] As to the local repeal of ss. 128 to 130, see foot-note on p. 58, ante.

As to continuance in office of persons employed under Bengal Act IX of 1880, or the grant of a compensation pension or gratuity to them, see s. 3 of the Bengal Local Self-Government Act of 1885, printed in the Bengal Code, 1905, Vol. II, p. 640.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 131, 132.)

meeting, remove the Vice-Chairman, and any member entitled to vote may give a proxy in writing to any other member for the above purpose.

Proxies allowed.

Such proxy shall be produced at the time of voting, and shall entitle the member to whom it is given to vote as authorized by the tenor of such proxy.

Salary of District Engineer.

[¹] 131. The committee at a special meeting shall determine the salary which they are prepared to give to the District Engineer, and shall report the same to the Lieutenant-Governor, who may approve of such salary, or require the committee to increase or to reduce the same. In determining such salary regard shall be had in each district to the character of the works and the nature of the duties required therein. The salary so determined and approved may from time to time be altered by the committee with the approval of the Lieutenant-Governor.

Appointment of Engineer.

[¹] 132. (1) Whenever the office of District Engineer shall be vacant, the committee shall represent the occurrence of such vacancy to the Lieutenant-Governor, who shall thereupon cause a list of qualified officers not being less than three in number to be laid before the committee, and the committee shall proceed to elect a District Engineer from the persons named in such list.

Existing appointments to hold good for two years only.

(2) All appointments of District Engineers existing at the time of the commencement of this Act shall hold good for a period not exceeding two years from such commencement, and, on the expiration of such time, every office of District Engineer to which the last appointment shall have been made before the commencement of this Act shall be deemed to be vacant, and a District Engineer shall be appointed in manner above prescribed :

Provided that, if the Lieutenant-Governor and the committee are satisfied that no change is required, any person holding the appointment of District Engineer at the time of the commencement of this Act may, with the sanction of the Lieutenant-Governor, be re-appointed by the committee to be District Engineer.

[¹] As to the local repeal of ss. 131 and 132, see foot-note on p. 58, ante.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 133, 134.)

(3) *The District Engineer may be suspended, removed or dismissed from his office by the Lieutenant-Governor.*

Engineer may be suspended or dismissed by Lieutenant-Governor.

[¹] 133. *The committee, subject to the limit of cost imposed by section 135, may, with the sanction of the Commissioner, determine, and from time to time alter, the details of the establishment of officers (other than the District Engineer), clerks and servants to be employed by them or by any branch committee as hereinafter appointed, and the salary to be paid to each such officer, clerk or servant :*

Establishments and salaries how to be fixed.

Provided that no salary exceeding Rs. 200 a month shall be attached to any office without the express sanction of the Lieutenant-Governor.

**Appointments to offices on the establishment so determined shall be made as follows :—*

Appointments how to be made.

to every office of which the salary does not exceed Rs. 50 per mensem, by the Chairman of the committee or of the branch committee, as the case may be ;

to every office of which the salary exceeds such amount, by the committee or the branch committee, as the case may be, with the approval of the Commissioner.

Any such officer, clerk or servant as aforesaid may be suspended or dismissed by the authority appointing him, subject to an appeal to the Commissioner, whose decision shall be final.

[¹] 134. *The committee shall make such rules as to leave of absence and absentee allowances as they from time to time may think fit for their own officers and servants, as well as for those of any branch committee:*

Leave of absence to officers.

Provided that, in the case of district engineers drawing a salary of Rs. 200 or upwards per mensem, leave of absence on medical certificate may be granted by the Lieutenant-Governor in accordance with the rules contained in Supplement F of the Civil Leave Code, or any other rules [²] for the time being in force for uncovenanted

[¹] As to the local repeal of ss. 133 and 134, see foot-note on page 53, ante.

[²] See now the Civil Service Regulations.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 135-138.)

officers of Government, and that no other leave of absence shall be granted to a District Engineer by the committee without the sanction of the Lieutenant-Governor.

Salaries not to exceed one-fourth of income.

[¹] 135. The aggregate salaries and absentee allowances of the engineers, officers, clerks and servants aforesaid, entertained by any district road committee and by all branch committees in any district together with the expenses of the Collector's establishments under section 91, and the amount which such district road committee is required to pay under section 181, shall not for any one year, without the express sanction of the Lieutenant-Governor, exceed one-fourth of the income of the committee for the said year exclusive of the balance of the previous year.

Appointment of divisional superintendent of works.

[¹] 136. The Lieutenant-Governor may, on the application of two-thirds of the committees in any division, appoint a divisional superintendent of works with the necessary office establishment, for the control and supervision of the executive works establishment in all districts of such division, and may determine the proportion of the cost payable by each district in the division in respect of the same.

Appointment of superintendent of works for group of districts.

[¹] 137. The Lieutenant-Governor may, on the application of any number of districts, whether forming part of the same division or otherwise, appoint a superintendent of works and establishment as aforesaid for such districts, and determine the proportion of the cost payable by each such district in respect of the same.

Pensions, gratuities, etc.

[¹] 138. The committee may, with the approval of the Lieutenant-Governor, make rules for pensions and gratuities to be granted and paid out of the district road fund to their officers and servants, and to those of any branch committee, and to the members of any establishment appointed by the Collector of the district under section 91, and may from time to time, with such approval, repeal, alter or add to such rules:

Provided that no officer shall be entitled to any pension or gratuity under this Act from the road fund of any district in respect of any

[¹] As to the local repeal of ss. 135 to 138, see foot-note on p. 58, *ante*.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 139, 140.)

period during which he was not serving under the committee of such district, or under the Collector of such district on an establishment entertained under section 91 for the purposes of this Act :

Provided also that no officer lent by Government and contributing from his salary to any pension fund shall be entitled to claim any pension from the district road fund.

Their Functions.

[¹] 139. *The committee may, through their Chairman or Vice-Chairman, enter into and execute any contract necessary for the purposes of this Act :* Mode of executing contracts.

Provided that every contract made on behalf of the committee in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the committee and shall be in writing and signed by at least two of the members of the committee, one of whom shall be the Chairman or Vice-Chairman.

Unless so executed, such contract shall not be binding on the committee.

[¹] 140. *No member, officer or servant of the committee shall be in anywise pecuniarily interested in any contract or work made with, or executed for, the committee; and, if any such member, officer or servant be so interested, he shall be incapable of afterwards continuing to be a member of the committee or holding or continuing in any office or employment under the committee, and shall be liable on conviction thereof to a fine of five hundred rupees :* Penalty on members and officers being pecuniarily interested in contracts.

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of joint-stock companies, passed by the Parliament of the United Kingdom, or by any Indian Legislature Exception.

[¹] As to the local repeal of ss. 139 and 140, see foot-note on p. 58, ante.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 141-144.)

which may enter into any contract with the committee, or execute any work for the committee, if such person shall, at or before the time of any such contract being made or tendered for, declare to the committee the extent of his interest in such company, and, if he be an officer or servant of the committee, obtain the sanction of the committee to his continuing to be such officer or servant.

Statement of communications to be prepared.

[¹] 141. On the commencement of this Act in any district or part of a district, the Vice-Chairman, within three months after his election, shall cause to be prepared a general statement of the roads, bridges, water-channels and other means of communication to be brought within the operation of this Act within the three years then next ensuing, and the committee shall, at some meeting to be held within one month after the submission of such statement or at any adjourned meeting, take such statement into consideration, and may pass such statement, or may make such alteration or addition therein as it shall think fit. Such statement shall be prepared with due advertence to the provisions of section 109.

Statement to be forwarded to Commissioner.

[¹] 142. The committee shall forward the statement which shall be passed as provided in the last preceding section to the Commissioner for transmission to the Lieutenant-Governor.

Supplemental statement.

[¹] 143. The Vice-Chairman may in any subsequent year cause to be prepared a supplemental statement of the kind mentioned in section 141 or a revised statement, and every such supplemental or revised statement shall be subject to the provisions of the last two preceding sections with respect to the statement therein mentioned.

Lieutenant-Governor may include or exclude any works in or from statement.

[¹] 144. The Lieutenant-Governor may at any time order that any road, bridge, water-channel or other means of communication as abovementioned be included in, added to, or excluded from, any statement or supplemental or revised statement prepared as mentioned in section 141 or 143.

[¹] As to the local repeal of ss. 141. to 144, see foot-note on p. 58, ante.

(Part III—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 145-149.)

Estimates : Determination of the Rate for the Year, and Publication thereof.

[¹] 145. The Collector shall, at such date as the committee shall fix, prepare and deliver to the committee a statement showing under separate heads the estimated proceeds for the year then next ensuing of the road cess at the maximum rate hereinbefore provided, and also of any sum and of any sources of revenue for the said year which the Lieutenant Governor shall have assigned to the said district, or which may be otherwise at the disposal of the committee.

Collector to submit to committee annual statement of estimated assets for coming year.

• [¹] 146. The committee shall, at some meeting to be held in such month as the Lieutenant-Governor shall determine, prepare an estimate of the income and expenditure of the committee for the year then next ensuing.

Annual estimate to be prepared.

[¹] 147. Notwithstanding that any work has been included in such estimate, the committee shall not begin the execution of any work until detailed specifications and estimates of the same have been passed, or until the execution of the work shall have been otherwise sanctioned by any authority whose sanction to the execution of such work is required under any rules made by the Lieutenant-Governor on that behalf as hereinafter provided.

Works not to be executed until estimates passed or execution sanctioned.

[¹] 148. In making the estimate of income as by the last section required, the committee shall take into consideration any sum and the proceeds of any source of revenue which shall have been placed at their disposal by the Lieutenant-Governor, or which may otherwise be available to them, and any unexpended balance of the district road fund of the previous year which is expected to be available for expenditure in the year of estimate; and shall proceed to determine the rate at which it will be necessary to levy the road cess for the last-mentioned year, so as to provide the further amount estimated to be required for expenditure in the said year.

Committee to determine rate of road cess.

[¹] 149. The total amount proposed to be expended in any one year in and by any estimate prepared as required by section 146 shall not exceed the proceeds estimated to be at the disposal of the committee for that year from the road cess, if levied within the district at the maximum rate at which such cess is leviable as mentioned in section 6,

Limit of estimate.

[¹] As to the local repeal of ss. 145 to 149, see foot-note on p. 52, ante.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 150-152.)

together with any sum, and the annual proceeds of any source of revenue, which shall have been placed by the Lieutenant-Governor at the disposal of the committee, or which may be otherwise at their disposal, and with the estimated unexpended balance of the District Road Fund of the previous year as above-mentioned.

Commissioner
may revise
estimate.

[1] 150. Every such estimate prepared by the committee under section 146 shall be forwarded through the Collector of the district to the Commissioner; and the Commissioner may approve such estimate and the rate determined by the committee.

Commissioner
may under
certain cir-
cumstances
alter
estimate.

[1] 151. If such estimate shall have been approved by any number, being less than two-thirds, of the members of the committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make such alterations as he shall think fit in the details or total of such estimate, or may return such estimate to the committee with instructions to make any such alterations in such details or total:

Provided that the Commissioner shall not make, and shall not require the committee to make, otherwise than with their own consent, any such alterations as shall have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the committee under section 148.

On receipt of such instructions the committee shall proceed to make such alterations, and shall re-submit the estimate to the Commissioner, who shall thereupon approve of the estimate and of the rate determined by the committee.

Procedure
where estimate
has been ap-
proved by not
less than two-
thirds of com-
mittee.

[1] 152. (1) If any estimate prepared under section 146 shall have been approved by any number, not being less than two-thirds, of the members of the committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make a communication to the committee, bringing to their

[1] As to the local repeal of ss. 150 to 152, see foot-note on page 58, ante.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Sec. 153.)

notice any alterations which it appears to him to be desirable to make in the details or total of such estimate ;

and, on receipt of such communication, the committee shall proceed to re-consider such suggestions, and may either—

(a) adopt such suggestions or any of them and revise their estimate accordingly, and, if necessary, the rate determined by them as that at which the cess shall be leviable during the coming year, and submit such revised estimate and rate for the sanction of the Commissioner ; or

(b) may adhere to their original estimate, and re-submit it to the Commissioner with their reasons for adhering to the same.

(2) On receipt of such estimate so re-submitted, the Commissioner may either sanction the estimate and the rate as determined by the committee, or may submit such estimate, together with the reasons recorded by the committee for adhering to the same, to the Lieutenant-Governor.

[1] 153. Whenever any such estimate shall be so submitted by the Commissioner, the Lieutenant-Governor may approve of such estimate, or pass such orders as he shall think fit, in respect to the alteration of the details or of the total of such estimate :

When estimate is submitted by Commissioner, Lieutenant-Governor may pass orders thereon.

Provided that the Lieutenant-Governor shall not make any such alterations, or require the committee to make any such alterations, as shall have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the committee under section 148, unless such rate shall, in the opinion of the Lieutenant-Governor, be insufficient to provide for the proper maintenance of such works as are contained in the statement prepared under section 141 or 143.

[1] As to the local repeal of s. 153, see foot-note on p. 58, ante.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 154-157.)

If it shall appear to the Lieutenant-Governor that the proceeds of the cess at the rate so determined will not suffice for such purpose, the Lieutenant-Governor may order that the cess shall be levied for the year in question at such rate as he may deem sufficient for such purpose subject to the limit in section 6 provided.

Rate determined to be reported to Lieutenant-Governor.

[1] 154. *When the estimate prepared and the rate determined by the committee shall have been approved by the Commissioner under sections 150, 151 or 152, the rate so determined and approved shall be reported by the Commissioner to the Lieutenant-Governor, who shall forthwith cause the same to be published in the Calcutta Gazette.*

Rate to be published in Gazette.

[1] 155. *When the Lieutenant-Governor shall under section 153 have approved of any estimate submitted to him as provided by section 152 and of the rate determined by the committee under section 148, or under clause (a) of section 152 in connection with such estimate, or when the Lieutenant-Governor shall under section 153 have ordered that the cess shall be levied at any other rate, the Lieutenant-Governor shall cause such rate as finally fixed by him to be published in the Calcutta Gazette.*

Rate published to be rate in force for year.

[1] 156. *The rate published in the said Gazette as provided in either of the last two preceding sections shall be the rate at which the road cess shall be leviable in the district for the year in respect of which such rate is so published, and the Collector of the district shall cause such rate to be published and proclaimed throughout the district and notice be given thereof as in section 40 is provided.*

Estimates may be amended.

[1] 157. *Any estimate prepared under section 146 and approved as hereinbefore provided may be amended or revised at any time with the sanction of the authority who originally approved of such estimate :*

Provided that the total of the estimate of expenditure as amended shall not exceed the total of the sums estimated to be available for expenditure during the year.

[1] As to the local repeal of ss. 154 to 157, see foot-note on p. 58. *an'c.*

(Part III.—Constitution and Administration of the District Road Fund.—Chapter X.—Branch Committees.—Secs. 158-162.)

CHAPTER X.

BRANCH COMMITTEES.

[¹] 158. In any district to which this Act shall have been extended, the Lieutenant-Governor may, in addition to a district road committee, form as many branch committees as he shall think fit for carrying out the purposes of this Act, and shall appoint a Chairman and Vice-Chairman thereof respectively, and shall define the portion of such district within which any branch committee shall exercise the powers conferred and discharge the duties imposed upon them by this Act:

Provided that, whenever the office of Vice-Chairman of any branch committee shall become vacant, the Chairman thereof may, with the approval of the Commissioner, appoint any member of such branch committee to be Vice-Chairman thereof ad interim until the vacancy shall have been filled up by the Lieutenant-Governor.

[¹] 159. The provisions of sections 112 to 117 (both inclusive), 119, 122 to 127 (both inclusive), 139 and 140, respecting district road committees, shall apply, so far as the same are applicable, to such branch committees.

[¹] 160. The Lieutenant-Governor may remove the Chairman or Vice-Chairman of a branch committee whenever he shall think fit.

Chairman and Vice-Chairman may be removed.

[¹] 161. Every branch committee may from time to time select any member thereof to be an additional member of the district road committee, and such member shall thereupon, for the space of one year, become a member of the said committee.

Member of branch committee may be additional member of district committee.

[¹] 162. Every such branch committee shall be, except as herein-after provided, subordinate to the district road committee, and shall forward to the committee such statements, suggestions and estimates as it may think fit, and the committee shall consider and have regard to such statements, suggestions and estimates in framing the statements and estimates hereinbefore directed.

Branch committee's statements.

[¹] As to the local repeal of ss. 158 to 162, see foot-note on p. 53, ante.

As to the transfer of roads, bridges, channels, buildings and other property from District Road Committees and Branch Committees to District Boards and Union Committees, see the Bengal Local Self-Government Act of 1885 (Ben. Act III of 85), s. 73, printed in the Bengal Code, 1905, Vol. II, p. 660.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter X.—*Branch Committees.*—Secs. 163-167.)

Branch committee may require statement to be submitted to Lieutenant-Governor.

[¹] 163. Any such branch committee may require that any such statement, suggestion or estimate shall be submitted to the Commissioner for his consideration and for that of the Lieutenant-Governor.

Funds of the branch committee.

[¹] 164. The Lieutenant-Governor may in each year assign to any branch committee so much of the road fund levied for that year in the district, for portion of which such branch committee is appointed, as he may think fit, not exceeding the total estimated proceeds for the road cess leviable within the said portion of the district; and, further, may allot to the said branch committee so much of the income of the district road fund from other sources as he shall think fit.

Special powers of the branch committee.

[¹] 165. The Lieutenant-Governor may in any such case declare that the branch committee shall have the full powers of a district road committee within such portion of the district, and, whenever the Lieutenant-Governor shall so have declared, the district road committee shall, within such portion of the district, cease to exercise powers and functions under sections 133, 139, 141, 142, 143 and 146. Such powers shall then vest in the branch committee; and the provisions of sections 120, 121 [with the exception of clauses (2), (3), (4) and (6)], 128, 142, 144 and 147, shall apply to the proceedings of such branch committee, provided that all correspondence with the Commissioner shall be submitted through the Collector of the district; in any case in which the Lieutenant-Governor may declare that a branch committee shall have the powers of a district road committee for specified works or specified purposes only, the powers of the district road committee in respect of such works and such purposes only shall cease within the said portion of the district, and such powers shall then vest in the branch committee.

Their estimates.

[¹] 166. Every branch committee so vested with powers as in the last preceding section provided shall prepare an estimate in regard to their annual income and expenditure similar to that required by section 146 to be prepared by the district road committee.

Limit of estimates.

[¹] 167. The provisions of sections 150, 151, 152, 153 and 157 shall, as far as they are applicable, apply to such estimate:

[¹] As to the local repeal of ss. 133 to 167, see foot-note on p. 58, ante.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter X.—Branch Committees.—Chapter XI.—Disbursement and Accounts of the District Road Fund.—Secs. 168-171.)

Provided that the aggregate amount to be expended by the branch committee in any year should not exceed the aggregate of the fund placed at their disposal for that year.

[¹] 168. *The Lieutenant-Governor may at any time order that any of the functions hereafter mentioned or referred to in Chapter XI shall be discharged by any branch committee instead of by the district road committee in respect of any portion of the district for which such branch committee has been appointed.* Lieutenant-Governor may assign functions of Chapter XI to branch committee.

[¹] 169. *The Lieutenant-Governor may at any time revoke an order forming any branch committee or an order declaring that a branch committee shall exercise the full powers or any special powers of a district road committee.* Lieutenant-Governor may revoke order forming branch committee.

CHAPTER XI.

DISBURSEMENT AND ACCOUNTS OF THE DISTRICT ROAD FUND.

[¹] 170. *The district road fund shall be lodged with the Collector of the district, who shall keep a separate account thereof, and shall cause to be prepared an annual statement of such account, showing in detail therein all sums paid into and all disbursements made from the treasury on account of the district road fund during the year.* Collector to prepare annual statement of the district road fund.

After the appointment of any branch committee in a district, the Collector of the district shall in like manner keep a separate account of the fund placed at the disposal of such branch committee.

[¹] 171. *All payments on account of the district road fund shall be made by the Collector out of the said fund upon cheques signed by the Vice-Chairman for sums not exceeding one hundred rupees. When the Vice-Chairman is absent or from any cause incapacitated from signing, the Chairman may sign such cheques on behalf of the Vice-Chairman.* Payments on account of the district road fund.

[¹] As to the local repeal of ss. 168 to 171, see foot-note on p. 58, ante.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter XI.—*Disbursement and Accounts of the District Road Fund.*—Secs. 172-176.)

Cheques for sums exceeding one hundred rupees shall be signed by the Chairman and the Vice-Chairman. When the Vice-Chairman is absent or from any cause incapacitated from signing, such cheques shall be signed by any ex-officio member of the committee other than the Chairman, on behalf of such Vice-Chairman.

The word "Chairman" in this section includes any officer for the time being in charge of the office of Chairman under a written order from the Chairman.

*Collector's
monthly
account.*

[¹] 172. *The Collector shall forward to the Vice-Chairman of every committee as soon as possible after the close of each month, an account of his receipts and disbursements on account of the district road fund during such month.*

*Accounts of
committee.*

[¹] 173. *Every committee shall keep regular and detailed accounts of the moneys received or applied by them under the provisions of this Act and of their application, and such accounts shall be at all convenient times, open to the inspection of all members of the committee.*

*Committee to
appoint a
sub-committee
to audit
accounts.*

[¹] 174. *Every committee shall appoint a standing sub-committee, consisting of the Vice-Chairman and not less than two other members, for the audit of their accounts; and the accounts of each month shall be laid before the sub-committee as soon as possible after the close of such month; whereupon the said sub-committee shall proceed to audit the said accounts in such manner as the Lieutenant-Governor may direct, and to pass or to amend and correct the said accounts as may be necessary, and to pass them as so amended and corrected.*

*Sub-committee may call
for vouchers
and papers;*

[¹] 175. *For the purposes of every audit and examination of accounts under this Act such sub-committee shall have power to call for all vouchers and papers which they may require.*

*and certify
correctness of
accounts.*

[¹] 176. *When such sub-committee shall have audited and passed the accounts of any month as above provided, they shall certify the result and the correctness of the accounts as passed by them in such form as the Lieutenant-Governor may direct.*

[¹] As to the local repeal of ss. 172 to 176, see foot-note on p. 58, ante.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter XI.—Disbursement and Accounts of the District Road Fund.—Secs. 177-180.)

[1] 177. The accounts of each month, audited, passed and certified as in the last preceding section provided, shall be submitted by the committee, not later than the twenty-fifth day of the following month to such officer as the Lieutenant-Governor may direct.

Accounts to be submitted to officer directed by the Lieutenant-Governor.

[1] 178. As soon as possible after the close of each year, the Vice-Chairman of every committee shall prepare a detailed account of the receipts and expenditure of the district road fund during such year; and also a report of the work done and in progress during such year, whether under the directions of the district road committee or of any branch committee other than a branch committee which has been vested with the full powers of a district road committee under section 165.

Vice-Chairman to prepare account of receipts and a report.

[1] 179. The annual accounts so prepared by the Vice-Chairman shall be examined and certified by the sub-committee of audit, and, after such examination and certification, shall be laid with the said annual report before a special meeting of the committee to be held within two months of the close of such year; and the committee shall submit a copy of the said account with a similar report to the Commissioner for transmission to the Lieutenant-Governor, who shall cause such accounts with an abstract of such report, together with such remarks as the Commissioner may have made thereon, to be published in the Calcutta Gazette.

Accounts to be certified by sub-committee and transmitted to Lieutenant-Governor.

[1] 180. Every district road committee may from time to time make, and when made, alter, add to or cancel, by-laws, not inconsistent with the provisions of this Act, for all or any of the following purposes, that is to say:—

The committee may make by-laws with approval of Lieutenant-Governor.

- (1) regulating the traffic and providing for the safety and convenience of passengers on any road, water-channel or other means of communication under the charge of the committee;
- (2) providing for the preservation of such roads, water-channels and other means of communication, and of the trees planted by, or under the charge of, the committee.

[1] As to the local repeal of ss. 177 to 180, see foot-note on p. 58, ante.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter XII.—*Miscellaneous.*—Sec. 181.)

Fines.

On conviction before a Magistrate a fine may be imposed for the breach of any such by-laws :

Provided that no fine exceeds for any offence the sum of ten rupees or, in the case of a continuing offence, the sum of two rupees for every day during which such offence is continued.

Any by-law so made, and every alteration of, addition to, and cancellation of such by-law, shall require the sanction of the Lieutenant-Governor ;

By-laws to
be published
in Gazette.

and, on such sanction being given, such by-law shall be published in the Calcutta Gazette and in the vernacular of the district, as the Lieutenant-Governor may direct ;

and on such publication such by-law shall have the force of law.

CHAPTER XII.

MISCELLANEOUS.

Lieutenant-Governor may give directions as to establishments, expenses, etc.

[¹] 181. The Lieutenant-Governor may from time to time direct that such establishments shall be entertained, and such expenses incurred, in the offices of the Board of Revenue, of the Commissioners of Divisions and of the Superintending Engineers, in any other office of control, in any office of account and in any treasury, or that such special officers shall be employed and such expenses incurred by them as may be necessary,

for the exercise of proper control over the proceedings of the Collectors and district road committees and branch committees in the discharge of their duties under this Act,

for the proper examination and checking of estimates furnished and accounts kept under this Act, and for the proper audit of such accounts,

and for the performance of the duties connected with the cash transactions of the district road committees :

and the Lieutenant-Governor may make rules providing for the recovery of the cost of the establishments so entertained, and the

[¹] As to the local repeal of s. 181, see foot-note on p. 58, ante.

(Part IV.—Chapter XIII.—General.—Sec. 182.)

officers so employed, and of the expenses so incurred, from the several district road committees in such proportions as he may think fit :

Provided that the total amount which any district road committee is required to pay under this section shall not in any year exceed two per centum on the income of such committee for such year.

PART IV.

CHAPTER XIII.

GENERAL.

182. The Lieutenant-Governor may from time to time make, and when made, from time to time alter, add to or cancel, any rules not inconsistent with the provisions of this Act,—

Lieutenant-Governor empowered to prescribe forms and rules.

- [1] (a) *regulating the performance of the duties of the district road committees and branch committees, and of all persons employed under this Act, and in regard to the qualification, appointment, election and discharge of such persons ;*
- [1] (b) *prescribing the authorities by whom the execution of works of different classes respectively may be authorised and sanctioned ;*
- [1] (c) *prescribing forms for the estimates, accounts, reports and statements required by this Act to be kept or made by the district road committee ;*
- (d) *prescribing forms of accounts to be kept by the Collector under this Act ;*
- [1] (e) *providing for the submission and checking of any estimates or accounts and for the audit of such accounts as aforesaid ;*
- (f) *fixing the dates for payment of instalments of cess under sections 42 and 57[2] ;*

[1] Cls. (a), (b), (c) and (e) of s. 182 are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force—see s. 2 and Sch. I of that Act in the Bengal Code, 1905, Vol. II, pp. 640, 678.

[2] The power to fix dates for payment of instalments of cess under s. 57 is now vested in the Board of Revenue—see that section, as printed *ante*, p. 36.

(Schedule A.)

[1] (g) determining the amount of fees to be levied for supplying copies of proceedings of any district road committee or branch committee as provided in section 127;

[1] (h) fixing the month in which the meeting mentioned in section 146 shall be held;

(i) and generally for the purposes of this Act.

Such rules shall be published in the Calcutta Gazette, and shall thereupon have the force of law.

SCHEDULE A.

Form of Return prescribed by section 14.

Amount of Government revenue or rent payable by the estate or tenure :

Rs. A. P.

PART I.

District

Name by which the estate or tenure is known, and the number which it bears on the Collector's general register, or on any other register kept by the Collector—

Details of lands in the actual occupation or cultivation of the person submitting the return :—

1	2	3	4	5
Pargana.	Name of village and thana in which the lands are situate.	Area of land [2] [if known].	Deduct area of land situate within any municipality.	Annual value of remaining land.

[3] NOTE.—In the body of this statement should be entered only nijjot lands and such uncultivated lands in the use and occupation of the maker of the return as are capable of assessment on their annual value.

[1] Cls. (g) and (h) of s. 182 are repealed in districts in which the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885) is in force—see s. 2 and Sch. I of that Act, in the Bengal Code, 1905, Vol. II, pp. 610, 678.

[2] These words in square brackets in the heading of column 3 of Part I were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 11.

[3] This note to Part I was substituted for the original note by s. 11 of the same Act. The original note ran thus :—

“NOTE.—Only nijjot lands and unculturable unlet lands should be included in this Part.”

(Schedule A.)

PART II.

District

Name and number of estate or tenure as in Part I.

Details of lands held by cultivating raiyats paying direct to the persons submitting the return :—

1	2	3	4	5	6	7
Fargana.	Name of village and thana in which the lands are situate.	Name of raiyat, name of village, thana and district in which he resides.	Area occupied [1] in known.	Annual rent	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART III. •

District

Name and number of estate or tenure as in Part I.

Details of the tenure-holders paying to the person submitting the return :—

1	2	3	4	5	6	7	8
Name of tenure-holder and person paying rent for him borne on the books of holder of estate or tenure.	Name of village, thana and district in which such person resides.	Name of village and thana in which tenure is situate.	Name of village and thana in which malcutcherry is situate	Area known.	Annual rent paid by tenure-holder.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART IV.

District

Name and number of estate or tenure as in Part I.

Details of lands included in the estate or tenure of the person

[1] These words in square brackets in the heading of column 4 of Part II were added by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881), s. 12.

(Schedule B.)

submitting the return which are held by others than himself, but for which no rent is paid:—

1	2	3	4	5	6	7
Pargana in which situate.	Name of village and thana in which situated.	Name of holder and owner, if known.	Name of village, thana and district in which the holder resides.	Area, if known.	Deduct area of land included in any municipality.	Annual value of remaining land.

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed_____

N.B.—This return must be signed by the holder or his authorized agent, whose address must also be given.

SCHEDULE B.

FORM No. I.

Form of Notice upon a Revenue-paying Estate or Rent-paying Tenure under section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

THE holders of estate or tenure (*description to be filled in*) in the district of _____ and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure and the rents paid therefor. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be

(Schedule B.)

allowed by the Collector on application made to him, until such return shall be lodged. Notice is hereby given that no rents due to the holders of the said estate (or tenure) can be recovered by suit after such time until such return be so lodged.

If the annual amount of revenue or rent payable on the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If such amount exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE,
Dated

(Sd.) A. B.,
Collector.

N.B.—To this Notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

FORM No. II.

Form of Notice upon a Revenue-free Estate or Rent-free Tenure under section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

THE holder of the revenue-free estate or rent-free tenure (*description to be filled in*) in the district of and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him until such return shall be lodged.

(Schedule C.)

Notice is hereby given that no rents due to the holders of the said estate (*or tenure*) can be recovered by suit after such time until such return be so lodged.

If the gross annual rental of the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If the gross rental exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE,

Dated

(Sd.) A. B.,

Collector.

N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

SCHEDULE C.

Form of Notice under section 33.

District of

NOTICE UNDER SECTION 33 OF THE CESS ACT, 1880.

The owner, chief agent, manager or occupier of (*give the name by which the concern or property is known*), situated in the district of _____, is hereby required to lodge in the office of the Collector of _____ of _____ a return in the form hereunto annexed, showing the amount of land under cultivation at the date of this return in the said _____.

Such return must be signed by him and be lodged within the space of two months from the service of this notice (unless within the said two months such owner, chief agent, manager or occupier obtained from the Collector an extension of the said space of two months), under penalty of a daily fine of fifty rupees for every day after the expiry of such period or extension thereof until such return shall be presented.

* (Schedule D.)

Form of Return to be annexed to the notice.

District

Details of lands acquired under any rules for the sale, lease, grant or clearance of waste lands or held direct from Government and used for the cultivation of tea, coffee or cinchona, under the control of the persons submitting the return :—

1	2	3	4	5	6	7
Districts	Parganas and thanas	Designation by which the estate, lot or grant is known, and the number it bears or any register kept by the Collector.	Name of owner, agent, manager or occupier.	Entire area of land.	Area or areas of lands under cultivation.	Aggregate value at Rs. 10 per acre of land in [1] [column 6].
in which the lands lie,						

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed.....

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE D.

Form of Notice under section 52.

NOTICE TO HOLDERS OF LANDS HELD RENT-FREE UNDER
SECTION 52 OF THE CESS ACT, 1880.

NOTICE is hereby given to all concerned that the lands specified in the annexed extracts from valuation-rolls of estates and tenures have been entered by the holders of such estates and tenures in the valuation-returns of their estates and tenures under the Cess Act, 1880, and have been valued as shown in the extracts.

[1] The word and figure in square brackets in the heading of column 7 were substituted for the word and figure "column 5" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben Act II of 1881), s. 13.

(Schedule E.)

Every owner and holder of any land entered in these extracts may appear before the Collector within one month of the publication of this notice, and may object to the amount at which his land has been valued.

If no such objection is made, the owners and holders of lands will be bound to pay year by year to the holder of the estate or tenure in which his land has been entered the amount of road cess and public works cess calculated on the annual value of such land as entered in these extracts at the full rate which may be fixed for the year in the district.

If any instalment of the cess due upon any of the lands included in these extracts is not paid to the holder of the estate or tenure on or before the date which the Lieutenant-Governor^[1] may fix for the payment of such instalment, the holder of the estate or tenure will be entitled to recover double the amount due with interest and all costs of suit

SCHEDULE E.

Form of Notice under section 72.

District of

NOTICE UNDER SECTION 72 OF THE CESS ACT, 1880.

THE owner, chief agent, manager or occupier of the (*give the designation of the property*), situated in the district of

, is required to lodge in the office of the Collector of the district of a return in the form hereunto annexed, showing the net profits of the calculated on the average of the profits of the last three years for which accounts have been made up. Such return must be signed by him or his authorized agent, and be lodged within the space of two months from service of this notice, unless within the said two months an extension of the time allowed is obtained from the Collector.^[2]

COLLECTOR'S OFFICE,

(Sd.) A. B.,

Dated

Collector.

[1] Now the Board of Revenue—see s. 57, as printed *ante*, p. 36.

[2] For penalty for omitting to lodge a return, see s. 72A, *ante*, p. 43.

(Schedule F.)

Annexed form of Return.

District

Detail of yearly profits of mines, quarries, railways and tramways or other immovable property in the possession or under the control of the person submitting the return :—

1	2	3	4
Districts	Parganas	Name of holder or manager.	Annual net profits <i>per annum</i> on the average of the last three years for which accounts have been made up.
in which the property lies.			

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed _____

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE F.

Form of Notice under section 99.

District of

NOTICE UNDER SECTION 99 OF THE CESS ACT, 1880.

THE occupiers, tenure-holders, under-tenants and raiyats on estate or tenure (*the estate, tenure or lands to be here clearly designated*) are hereby prohibited, until further order of the Collector, from making any payment of rent now or hereafter to become due from them in respect of any land comprised within

(Schedule F.)

such estate or tenure except to the Collector of the said district or to *(name of person)* hereby appointed to receive the same. The Collector will grant receipts for all sums paid, and such receipts will, under the provisions of the above Act, be a valid discharge, to the extent of the sums covered by such receipts, for rent due, or hereafter to become due, as above stated by the holders of such receipts. All payments, except to the Collector, until further order, will be null and void.

(Sd.) A.B.,
Collector.



Government of Bengal
Legislative Department

Bengal Act XI of 1934

The Bengal
Cess (Amendment) Act, 1934

Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal
1934

Price—Indian, 1 anna ; English, 2d.

Bengal Act XIV of 1932.

THE BENGAL [CESS (AMENDMENT) ACT, 1932.

[Published in the *Calcutta Gazette* of the 17th November, 1932.]

An Act further to amend the Cess Act, 1880.

WHEREAS it is expedient further to amend the Bengal Cess Act of 1880 in order to remove certain anomalies in the Act ; Ben. Act
IX of 1880.

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bengal Cess (Amendment) Act, 1932.

Extension of
section 52A of
Bengal Act IX of
1880 to
Chittagong,
Rajshahi and
Dacca Divisions.

2. The provisions of section 52A of the Cess Act, 1880, enacted by section 13 of the Bengal Cess (Amendment) Act, 1910, are extended to the districts in the Chittagong, Rajshahi and Dacca Divisions of the Bengal Presidency. Ben. Act
IV of 1910.

Price—Indian, 1 anna ; English, 1d.



Government of Bengal

Legislative Department

Bengal Act XI of 1934

**The Bengal
Cess (Amendment) Act, 1934**

**Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal**

1934

**Published by the Superintendent, Government Printing
Bengal Government Press, Alipore, Bengal**

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**Messrs. S. K. Lahiri & Co., Printers and Booksellers, College Street, Calcutta.
Messrs. Thacker, Spink & Co., Calcutta.**

**Customers in the United Kingdom and the Continent of Europe
may obtain publications either direct from the High Commissioner's office
or through any bookseller.**

Bengal Act XI of 1934.

THE BENGAL CESS (AMENDMENT) ACT, 1934.

[Published in the *Calcutta Gazette* of the 14th June, 1934.]

An Act further to amend the Cess Act, 1880.

Ben. Act
IX of
1880.

WHEREAS it is expedient further to amend the Cess Act, 1880, in the manner hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act ;

5 & 6 Geo.,
V.c. 61 ;
6 & 7 Geo.,
V.c. 37 ;
9 & 10
Geo.,
V.c. 101.

It is hereby enacted as follows :—

1. This Act may be called the Bengal Cess (Amendment) Act, 1934. Short title.

2. For sections 22 and 23 of the Cess Act, 1880 (hereinafter referred to as the said Act), as originally enacted, sections 22 and 23 of the said Act as substituted for Western Bengal by section 6 of the Bengal Cess (Amendment) Act, 1910, shall be substituted. Amendment of sections 22 and 23 of Bengal Act IX of 1880.

3. Chapter IIA of the said Act is hereby repealed. Repeal of Chapter IIA.

4. For section 45 of the said Act the following section shall be substituted, namely :— Substitution of new section for section 45.

“ 45. (1) A rebate of five *per centum* of the amount payable as an instalment of road cess and public works cess under Chapter III, IV or VIIA in respect of any estate or tenure, or of the interest of a cultivating *raiyat* shall be allowed at the time of payment : Effect of payment or non-payment of cess on or before due date.

Provided that—

(a) the instalment is paid in full on or before the due date, and

(b) the annual cess payable in respect of the estate, tenure or interest amounts to fifty rupees or more.

Explanation.—The word ‘estate’ as used in this sub-section means, in the case of a payment made in respect of

(Sections 5, 6.)

the share or portion of an estate for which a separate account referred to in section 44 has been opened, the share or portion in respect of which the payment is made.

(2) Notwithstanding anything contained in Schedule III to the Bengal Tenancy Act, 1885, if any instalment of road cess or public works cess or part thereof payable to the Collector shall not be paid within thirty days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered at any time within six years after it becomes due, with interest at the rate of twelve and a half *per centum per annum* calculated from the date on which such instalment became due with all costs of recovering the same : VIII of 1885.

Provided that if the amount of such instalment or part thereof be recovered before the expiration of the financial year in which the instalment became due interest shall be recoverable at the rate of six and one-fourth *per centum per annum* calculated from the date on which the instalment became due with all costs of recovering the same.

(3) The provisions of sub-section (1) shall not apply to any amount payable as road cess and public works cess in respect of any lands referred to in section 33 or sub-section (4) of section 107 D."

Amendment of section 50.

5. (1) In section 50 of the said Act, for the words "without payment of rent" the words "rent-free" shall be substituted.

(2) To the said section the following proviso shall be added, namely :—

"Provided that where in a valuation or revaluation of lands made under Chapter VIIA any such land is recorded in the last finally published record-of-rights as comprised within any estate or tenure, it shall be deemed to form part of the estate or tenure in which it is so recorded, unless the Collector orders that in any particular case such land shall be included in some other estate or tenure or that the cess shall be payable direct to the Collector or to any other person on his behalf."

Insertion of new section 51A.

6. After section 51 of the said Act the following section shall be inserted, namely :—

Information regarding rent-free lands.

"51A. (1) Every owner, holder or occupier of any rent-free land shall be bound to give on demand to the Collector or to the holder of the estate or tenure within which such land

of 1934.]

(Sections 7, 8.)

is, for the purposes of this Act, included or to his authorized agent all information in his possession regarding the area, situation and description of the land and the names and addresses of all persons owning, holding or occupying it as may be reasonably required for the purpose of the collection or recovery of the cess due on such land.

VIII of
1885.

(2) If any such owner, holder or occupier of rent-free land fails without reasonable excuse to comply with such demand within three months after receiving the same, he shall be liable to a fine not exceeding one hundred rupees, and the provisions of sub-sections (3) to (7) of section 58 of the Bengal Tenancy Act, 1885, shall, so far as may be, apply to the imposition and recovery of the fine.

(3) The Collector may, either on the application of the holder of the estate or tenure within which such rent-free land is included, or of his own motion, summon the owner, holder or occupier of any rent-free land to furnish him with the information referred to in sub-section (1) and such owner, holder or occupier shall furnish such information so far as the same may be in his possession.

Act V of
1908.

(4) For the purpose of sub-section (3) the Collector shall have power to summon, and enforce the attendance of, witnesses, and compel the production of documents, in the same manner as is provided in the case of a Court under the Code of Civil Procedure, 1908."

7. After section 57 of the said Act the following section shall be inserted, namely :—

Insertion of new
section 57A.

"57A. (1) The provisions of section 54 of the Bengal Tenancy Act, 1885, regarding payment or tender of rent at the landlord's village office or other convenient place or by postal money order shall apply to the payment or tender of cess by the owner, holder or occupier of rent-free land, as if the person to whom the same is payable under this Act is his landlord.

Place of payment
or tender of cess.

(2) The provisions of section 56 of the Bengal Tenancy Act, 1885, regarding the grant of rent-receipts shall apply to the payment of cess by the owner, holder or occupier of rent-free land as if the person to whom the cess is payable under this Act is his landlord."

8. In section 58 of the said Act, after the words "is not paid" the words "or tendered" shall be inserted.

Amendment of
section 58.

(Section 9—12.)

Amendment of
section 64A.

9. In section 64A of the said Act,—

VIII of 1885.

- (a) before the words “All sums due” the words and figures “Notwithstanding anything contained in Schedule III to the Bengal Tenancy Act, 1885,” shall be inserted ;
- (b) after the words “provisions of this Chapter” the words, figures and letters “or of Chapter VIIA” shall be inserted ;
- (c) after the words “any occupier of the same” the words “within six years from the date on which such sums became due,” shall be inserted ; and
- (d) the words “and subject to the same rules as to limitation” after the words “transferable tenure or holding” shall be omitted.

Amendment of
section 79.

10. To section 79 of the said Act the following proviso shall be added, namely:—

“Provided further that if the Collector is satisfied that though net profits accrued, from any property assessable under this Chapter, in any previous years no cess was paid in respect thereof the Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient the net profits of such property for each such year during a period not exceeding the last preceding three years, and road cess and public works cess shall be payable in respect thereof at the rate determined for each such year, respectively, and the Collector shall add the amount of such cess to the amount shown in the notice to be served under section 80 and such cess shall be payable in two equal instalments as provided in section 80.”

Amendment of
section 106.

11. In section 106 of the said Act, after the words “The Board of Revenue may” the words, figures and letter, “ , subject to the provisions of section 107-R,” shall be inserted.

Insertion of
new Chapter
VIIA.

12. In Part II of the said Act, after section 107 the following Chapter shall be inserted, namely :—

“ Chapter VIIA.

Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.

of 1934.]

(Section 12.)

107-A. (1) Notwithstanding anything contained in this Act— Application of Chapter.

- (a) the valuation or revaluation of lands in a district included in Schedule G or in a part of such district shall be made in accordance with the provisions of this Chapter ;
- (b) every holder of an estate, other than Government, and every holder of a tenure or other interest in land in a district or part of a district in respect of which such valuation or revaluation shall have been made shall be bound to pay cess in accordance with the provisions of this Chapter from the date fixed by the Board of Revenue as the date from which such valuation or revaluation shall take effect :

Provided that no such valuation or revaluation shall take effect before the expiration of the period of five years from the date from which the last preceding valuation, if any, took effect.

(2) The Local Government may, from time to time, by notification in the *Calcutta Gazette* include in Schedule G any district in respect of the whole or any part of which a record-of-rights has been finally published under Chapter X of the Bengal Tenancy Act, 1885.

VIII of
1935.

107-B. In this Chapter, unless there is anything repugnant in the subject or context,— Definitions.

- (1) 'acreage rate' means the rate per acre of land determined in accordance with the provisions of this Chapter ;
- (2) 'annual value of any land' means the sum of money calculated by multiplying the area of the land by the acreage rate applicable to such land ;
- (3) 'cess' means the road cess and the public works cess ;
- (4) 'cess-free land' means all land in respect of which, in accordance with the provisions of section 107-C, no cess shall be payable ;
- (5) 'cess-paying land' means all land other than cess-free land ;
- (6) 'class of land' means a class of land according to the classification adopted in the last finally published record-of-rights relating to the district or part of a district in which the land is situated ;

(Section 12.)

(7) (i) except as provided in sub-clause (ii), 'Collector' means, in the case of lands which have been or are about to be valued or revalued under this Chapter, the officer in charge of the revenue administration of the district in which such lands are situated or any officer appointed by the Local Government to exercise any of the functions of a Collector under this Chapter in respect of such lands ;

(ii) in clause (8), in sub-section (1) of section 107-M and in section 107-O 'Collector' means, in the case of a revenue-paying estate, the Collector or similar officer on whose revenue-roll the estate is borne, and, in the case of a revenue-free estate, the Collector or other similar officer on whose general register of revenue-free lands the estate is borne ;

(8) 'estate' means—

(1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force ;

Ben. Act
VII of
1876.

(2) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands ;

(9) 'farmer of an estate' means the farmer of an estate let to him in farm by Government ;

(10) 'holder of an estate' includes Government in the case of estates which are—

(a) the property of Government, or

(b) the property of private persons and are under the direct management of Government or have been let in farm by Government ;

(11) 'prescribed' means prescribed by rules made under this Chapter ;

of 1934.]

(Section 12.)

- (12) 'rent' means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant :

Explanation.—Where rent is payable in kind the money value thereof shall, for the purposes of this Chapter, be taken to be the value of the landlord's share of the crop calculated on an average of the five years next preceding any valuation or revaluation under this Chapter ;

VIII of
1885.

- (13) 'tenure', '*raiyat*' and 'under-*raiyat*' have the same meaning as in the Bengal Tenancy Act, 1885.

107-C. (1) Except as otherwise provided in this section all lands shall be cess-paying.

Cess-paying
and cess-free
lands.

- (2) The following lands shall be cess-free, namely :—

(a) in areas other than those referred to in clause (b)—

(i) all lands recorded in the last finally published record-of-rights as belonging to a class included in the statement of classes of cess-free lands published under sub-section (3) of section 107-G ;

(ii) all lands included in a list of cess-free lands published under sub-section (2) of section 107-I ;

(b) in areas which have been omitted from a record-of-rights, or in which the Collector considers that the classification contained in the last finally published record-of-rights should not be followed owing to extensive changes in the land which have occurred since its preparation—

(i) all lands which consist of jungle, road, path, river, *khal*, graveyard, cremation-ground, mosque, temple or any other place of public worship, unculturable waste, unculturable marsh and unculturable *bil* so long as they continue to be such ;

(ii) all lands exempted for the time being from liability to cess by an order of the Collector.

(Section 12.)

(3) Nothing in this Chapter shall apply to the following classes of immovable properties, namely :—

- (i) railways and tramways,
- (ii) mines and quarries, and
- (iii) forests :

Provided that the Collector may, at his discretion, decide what lands shall be assessable under Chapter V as forests.

**Determination of
acreage rate.**

107-D. (1) On receipt of an order under section 12 or section 15 for the valuation or revaluation of a district or part of a district the Collector may divide the district or part thereof into as many suitable units as he considers necessary and shall determine in accordance with such rules as the Local Government may make a fair and uniform acreage rate for the district or part thereof, as the case may be, or, if the district or part thereof has been divided into units, a fair and uniform acreage rate for each unit.

(2) Such rate shall not exceed—

- (a) one-fifth of the value of the gross produce per acre of all cess-paying lands in the area for which the rate is being determined estimated on the assumption that the land produces a normal crop of paddy :

Provided that in respect of any district or part of a district the Local Government may, at its discretion, direct that the estimate shall be made without such assumption :

In making the estimate the following matters shall be taken into account, namely :—

- (i) the general productivity of agricultural lands in the area for which the rate is being determined ;
- (ii) the prices prevailing during the preceding five years of agricultural produce generally in the district ;
- (iii) the total estimated value of all agricultural produce of the district for the preceding five years ;

- (b) a rate likely to increase the total cess demand in the district by more than twenty *per centum*.

of 1934.]

(Section 12.)

(3) In determining such rate the Collector shall take amongst others the following matters into consideration :—

- (i) the maximum rate according to his estimate under sub-section (2) ;
- (ii) the amount of the existing demand for road cess and public works cess in the district and the incidence thereof ;
- (iii) the rate of rent generally payable by *rai-yats* or under-*rai-yats* of all grades.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), in the case of lands acquired under any rule issued by, or under the authority of, Government for the sale, lease, grant or clearance of waste lands, or held directly from Government, and used for the cultivation of tea, coffee or cinchona, the acreage rate shall be twenty rupees per acre.

107-E. (1). The Collector shall, except in the case of an area referred to in clause (b) of sub-section (2) of section 107-C, in accordance with such rules as the Local Government may make in this behalf—

Determination of cess-free and cess-paying lands.

- (a) prepare a statement of the classes of lands in the district or part of a district which shall be cess-free and shall include therein any class of lands consisting entirely of jungle, road, path, river, *khal*, graveyard or cremation-ground, mosque, temple or any other place of public worship, and may include therein any other class of land if he considers it to consist entirely of unculturable waste, and
- (b) prepare, in such form as may be prescribed, a list of lands in any village, group of villages or local area, other than lands belonging to any class specified in the statement prepared under clause (a), which shall be cess-free :

Provided that he shall not include any land in the list except on the ground that it is unculturable waste.

(2) In the case of an area referred to in clause (b) of sub-section (2) of section 107-C, the Collector shall, after considering the returns, if any, submitted by the holder of the estate or rent-free interest in which any part of such area is included, summarily determine the total area and the annual value of the cess-paying lands in such area which are included in any estate or rent-free interest, and shall prepare the valuation-roll for such estate or rent-free interest accordingly.

(Section 12.)

Preliminary publication of division of district into units, acreage rate and classes of cess-free lands.

107-F. (1) The Collector shall publish a statement specifying—

- (a) the units, if any, into which he proposes to divide the district or part thereof ;
- (b) the acreage rate determined by him for the district or part thereof or for each unit ;
- (c) the classes of land which shall be cess-free ;

with an explanation of the grounds for his proposals, in such manner and for such period as may be prescribed, and shall receive and consider any objections received regarding the same during the period of publication, and shall dispose of such objections according to such rules as the Local Government may make.

(2) No such objection shall be considered except in regard to the units into which it is proposed to divide the district or part thereof, the acreage rate which has been determined, and the classes of land which shall be cess-free.

Appeal to and revision by a revenue authority and final publication of division of district, acreage rate and classes of cess-free lands.

107-G. (1) An appeal from any order of the Collector disposing of an objection under section 107-F shall, if presented within thirty days from the date of the order, lie to the revenue authority appointed by the Local Government in this behalf whose decision thereon shall, subject to the provisions of sub-section (2), be final.

(2) The Local Government and, subject to the control of the Local Government, the Board of Revenue may revise any estimate made under sub-section (2) of section 107-D by any subordinate authority and any decision by any such authority relating to the division of a district or part thereof into units or to any acreage rate or to the classes of land which shall be cess-free.

(3) When the appeals, if any, under sub-section (1) have been disposed of, the Collector shall submit all his proceedings through the Commissioner of the Division and the Board of Revenue to the Local Government, and the Local Government, after making such modifications, if any, as it may think fit, shall finally publish in the *Calcutta Gazette* a statement showing—

- (a) the units, if any, into which the district or part of a district will be divided,
- (b) the classes of land which shall be cess-free, and
- (c) the acreage rate or rates,

and the publication in the *Calcutta Gazette* shall be conclusive evidence that these have been duly determined under this

of 1934.]

(Section 12.)

Chapter. The Local Government shall forward a copy of the statement to the Collector for publication in the prescribed manner.

Ben. Act
III of
1885.

107-H. (1) Notwithstanding anything contained in section 46 of the Bengal Local Self-Government Act of 1885, the Local Government may, after considering the views of the District Board, determine for any district or part of a district the rates at which the road cess and the public works cess, respectively, shall be levied for each year on each rupee of the annual value of cess-paying land, and may from time to time vary such rates after considering the views of the District Board :

Rates at which cess to be levied.

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-quarter anna on each rupee of such annual value.

(2) The rates so determined shall be published in the *Calcutta Gazette* and in the prescribed manner :

Provided that such publication shall not be necessary unless a change has been made in the rates since they were last published in the *Calcutta Gazette*.

107-I. (1) The Collector shall prepare and publish in such form and in such manner as may be prescribed —

Preparation and publication of valuation-rolls, statements, and lists of lands.

(a) a valuation-roll in respect of every estate showing in addition to any other particulars, the total area and the total annual value respectively of the rent-paying and rent-free lands in the area under valuation other than cess-free lands comprised in the estate, and the land-revenue, if any, payable for the estate or portion of the estate under valuation ;

(b) a valuation-roll of every rent-free interest showing in addition to any other particulars the annual value of the cess-paying lands in such interest, and whether the cess is payable to the Collector direct or to the holder of an estate or tenure other than the Collector. In the latter case, the name, number or other description of the estate or tenure within which the land is included shall be stated ;

(Section 12.)

- (c) statements of the annual value of lands comprised in all other interests. The particulars contained in such statements shall be presumed to be correct until the contrary is proved.

Notwithstanding anything contained in any such statement the holder of an estate or tenure shall be entitled to recover from his tenant, and such tenant shall be bound to pay, the cess due on account of the land held or occupied by him according to the provisions of this Chapter.

- (2) The Collector shall also publish in the prescribed manner the lists of cess-free lands prepared under clause (b) of sub-section (1) of section 107-E.

Power of Collector to call for returns from owners or holders of estates or other interests.

107-J. (1) The Collector may, where he thinks fit and in particular in respect of rent-free interests, or where there has been a change since the last finally published record-of-rights in any area was prepared, or the last revaluation made under this Chapter, owing to the addition or exclusion of lands by alluvion or diluvion or any other causes, call for returns to be filed by the holders of estates or tenures or the owners, holders or occupiers of rent-free interests in the prescribed form.

(2) Where the Collector requires such returns he shall publish a proclamation in the prescribed manner calling upon the holders of estates or tenures or the owners, holders or occupiers of rent-free interests concerned to file returns in the prescribed form and every such holder or occupier shall file, with full and correct information, the returns so called for within the time specified in the proclamation.

Each such return shall show, in addition to any other particulars, the total area, the area, if any, within the limits of a municipality and the particulars of any change in the area of such estate, tenure or interest, a specification of the lands added thereto or excluded therefrom, with an explanation of the reasons for such change, addition or exclusion, and the revenue or rent payable in respect of the estate, tenure or interest.

(3) If any holder of an estate or tenure or the owner, holder or occupier of rent-free interest fails to comply with the requisition for returns, he shall be subject to the provisions of sections 18, 19 and 20.

of 1934.]

(Section 12.)

107-K. Copies of, or extracts from, the valuation-roll prepared under section 107-I shall be available to holders of estates or tenures or other interests or the owners, holders or occupiers of rent-free interests in such manner and on payment of such fees as may be prescribed.

Copies of or extracts from valuation-roll to be available on payment of fees.

107-L. The Collector may, at any time, correct any *bona fide* clerical mistake in or omission from the valuation-roll.

Correction of mistakes in valuation-roll.

107-M. (1) Every holder of an estate, other than Government, and every farmer of an estate, shall yearly pay to the Collector the total cess calculated on the annual value of the cess-paying lands included in such estate, at the rate or rates which may have been determined for the road cess and public works cess respectively for the year as in this Chapter provided, less a deduction to be calculated at the said rates for every rupee of the land-revenue, if any, entered in the valuation-roll of such estate as payable in respect thereof, and less also a deduction at half the said rates on the annual value of all cess-paying rent-free lands comprised within the estate.

Payment of cess.

(2) Every holder, other than a rent-free holder, of a tenure or other subordinate interest comprising any cess-paying lands shall yearly pay to the person to whom his rent is payable the total cess calculated on the annual value of the cess-paying lands comprised in his tenure or interest, at the rate or rates which may have been determined for the road cess and public works cess for the year as in this Chapter provided, less a deduction to be calculated at the said rates for every rupee of the rent payable, if any, by him for such tenure or interest, and less also a deduction at half the said rates on the annual value of all cess-paying rent-free lands comprised within the tenure or interest :

Provided that where the rent payable is equal to or greater than the annual value, no cess shall be payable by him.

Explanation.—In this sub-section the expression “ rent payable ” means, where the rent is payable in kind, the money value thereof.

(3) Every owner and holder of any rent-free land, and every person in receipt of the rents and profits or in possession or enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in which such land is included under the proviso to section 50, or to the Collector if the Collector has ordered that the cess shall be paid to him direct, the total cess calculated on the annual value of such land, not being cess-free land, at the full rate or rates which may have been determined for the road and public works cess as in this Chapter provided.

(Section 12.)

Power to
Collector to grant
abatement or
remission of
cess.

107-N. Notwithstanding anything contained in this Act, the Collector may, in accordance with rules to be made by the Local Government, at any time grant abatement or remission of any cess payable under this Chapter.

Power to serve
notice showing
cess and fixing
the date from
which cess shall
take effect.

107-O. (1) The Collector shall cause to be served on every holder of an estate other than Government and on every farmer of an estate, in the prescribed manner, a notice showing the amount of cess payable under sub-section (1) of section 107-M in respect of his estate and specifying the date from which such cess will take effect.

(2) Notwithstanding anything contained in section 107-M, the amount shown in the said notice shall be recoverable from the said holder or farmer other than Government.

(3) The Collector may at any time serve a revised notice on the said holder or farmer if he finds that the amount of cess payable under section 107-M has not been correctly calculated or has not been correctly shown in the notice.

(4) In case of any change in the rate of cess it shall not be necessary to serve a revised notice but the amount of cess payable shall be proportionate to the changed rate.

(5) The notice issued under sub-section (1) shall include the cess payable in respect of the estate in all districts including cess, if any, payable under sub-section (1) of section 41 or section 51 on account of lands in respect of which a valuation or revaluation made under Chapter II is still in force, and no separate notice under section 40 shall be necessary :

Provided that if any lands valued or revalued in any district under this Chapter appertain to an estate which is borne on the revenue-roll or general register of revenue-free lands of another district, and a valuation or revaluation under Chapter II is still in force in respect of any lands appertaining to that estate which are situated in the latter district, the Collector may issue a notice under section 40 showing the total cess payable in respect of the estate in all districts both under section 107-M and under sub-section (1) of section 41 and section 51, and no separate notice under sub-section (1) shall be necessary.

Particulars of
cess to be speci-
fied in receipt.

107-P. (1) Where a tenant makes payment on account of cess to his landlord the rent-receipt granted by the landlord under section 56 of the Bengal Tenancy Act, 1885, shall specify the amount of cess paid by the tenant and the total cess demand payable by him correctly calculated by the landlord.

VIII of
1885.

of 1934.]

(Section 12.)

(2) If the receipt does not contain substantially the particulars required by sub-section (1), it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands of cess payable by the tenant to his landlord up to the date on which the receipt was given.

107-Q. (1) Notwithstanding anything contained in this Act, if at any time while any valuation or revaluation is in force it appears to the Collector that owing to alluvion or diluvion or other cause extensive changes have occurred in any land, and that in consequence thereof the annual value shown in the valuation-roll of any estate or rent-free interest should be altered, he may, after notice to the holder of such estate or rent-free interest and after making such inquiry as he considers necessary, enhance or reduce the annual value in such valuation-roll, and publish a revised valuation-roll of such estate or rent-free interest, and issue a revised notice under section 107-O, and may also, if necessary, amend any list published under section 107-I.

Alteration of annual value and revision of valuation-roll in certain cases.

(2) When the Collector publishes a revised valuation-roll under sub-section (1), he may order that the revised valuation shall take effect from a date not being earlier than the beginning of the second financial year previous to the financial year in which the revised roll is published and cess shall be payable accordingly.

107-R. (1) The Local Government may from time to time make, and when made, from time to time, alter, add to or cancel, any rule—

Rules.

- (a) regulating the determination of the acreage rate referred to in sub-section (1) of section 107-D ;
- (b) regulating the preparation of the statement of cess-free lands and the lists of cess-free lands referred to in sub-section (1) of section 107-E and prescribing the form of such lists ;
- (c) prescribing the manner and period of publication of the statement referred to in sub-section (1) of section 107-F, the method of disposal of objections under the said sub-section and the manner of final publication of the statement by the Collector under sub-section (3) of section 107-G ;
- (d) prescribing the manner of publication of the rates determined under section 107-H.
- (e) regulating the preparation and prescribing the form and the manner of publication of valuation-rolls and statements of annual value of lands and the manner of publication of lists of cess-free lands under section 107-I ;

(Section 12.)

- (f) prescribing the manner of publication of the proclamation under section 107-J and the forms for, and contents of, the returns required under that section ;
- (g) prescribing the manner of, and the amount of fees to be levied for, supplying extracts from or copies of valuation-rolls under section 107-K ;
- (h) regulating the abatement or remission of cess under section 107-N ;
- (i) prescribing the manner of service of notice under section 107-O ; and
- (j) generally to carry out the purposes of this Chapter.

(2) Such rules shall be published in the *Calcutta Gazette* and thereupon shall have the force of law :

Provided that any rule made under clause (h) of sub-section (1) shall be subject to the condition of previous publication.

Application of certain provisions of this Act to this Chapter.

107-S. For the purposes of this Chapter—

- (i) the following provisions of this Act shall not be applicable, namely :—

The definitions of 'annual value of any land, estate or tenure', 'cultivating *raiyat*', 'estate', 'holding', 'tenure', 'the Collector' and 'the Collector of the district' in section 4 ; sections 6, 13, 14, 16, 17 and 21 to 35 ; in section 37 the words 'from making at any time any reduction which he may think fit in the valuation of any estate or tenure ; or' ; sections 38 to 40A, 41 except the last paragraph as in force in Western Bengal, 51 to 56, 59 to 64, the proviso to section 64A, sections 66 to 71, 89, 93 and the portion of section 102 after the word and figures 'section 78' to the word and figures 'section 35' ;

- (ii) all the other provisions of this Act shall be applicable *mutatis mutandis*, so far as the same may reasonably be applied, and subject to the following particular modifications, namely :—

(a) in section 42, in sub-section (1), after the words 'revenue-paying estate' and in sub-section (2) after the words 'revenue-free estate' the words 'other than Government, and every farmer of an estate' shall be deemed to be inserted ;

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(Sections 13, 14.)

- (b) in sub-section (3) of the said section, for the words 'cultivating raiyat' and for the word 'raiya' in the two other places where it occurs the words 'holder of any other subordinate interest in land' shall be read ;
- (c) in section 47, after the word 'tenure' the words 'or any other subordinate interest in land' shall be deemed to be inserted ;
- (d) in section 48, after the words 'in an estate or tenure' the words 'or any other subordinate interest in land' shall be deemed to be inserted."

13. After Schedule F of the said Act the following Schedule shall be added, namely :—

Addition of new
Schedule G.

" Schedule G.

Names of districts in which, or in parts of which, valuation or revaluation shall be made under Chapter VIIA.

- | | |
|-----------------|-----------------|
| 1. Burdwan. | 9. Dacca. |
| 2. Bankura. | 10. Mymensingh. |
| 3. Midnapore. | 11. Faridpur. |
| 4. 24-Parganas. | 12. Noakhali. |
| 5. Nadia. | 13. Tippera. |
| 6. Murshidabad. | 14. Rajshahi. |
| 7. Jessore. | 15. Bogra. |
| 8. Khulna. | 16. Pabna. |

17. Malda."

14. To section 46 of the Bengal Local Self-Government Act of 1885, the following proviso shall be added, namely :—

Amendment
of section 46
of Ben. Act
III of 1885.

Ben. Act
IX of 1880.

"Provided further that this section shall not apply to a district in respect of which a valuation or revaluation has been made under Chapter VII-A of the Cess Act, 1880, nor shall a rate be fixed under this section in respect of any land which has been so valued or revalued".

